

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.239

CRM-A-2087-MA-2017 (O&M)
DECIDED ON: January 21, 2019

SAJJAN SINGH

..APPELLANT

VERSUS

RAJBIR SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Anil Ghanghas, Advocate,
for the appellant.

SUDHIR MITTAL, J. (ORAL)

The appellant is the complainant. His complaint under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as the Act) has been dismissed on the ground that it was premature.

Learned counsel for the appellant submits that cheque dated 19.03.2014 was dishonored and an intimation thereof was received on 21.03.2014. Thereafter, notice under Section 138 of the Act was served upon the accused on 04.04.2014. The complaint was filed on 17.04.2014 i.e. after 13 days of service of the notice. Under the circumstances, the trial Court was in error in dismissing the complaint because had the accused-respondent any intention of making payment, he would have done so within 13 days and there was no necessity to wait for the statutory period prescribed.

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The contention of learned counsel for the appellant does not deserve to be accepted. An accused has statutorily been granted 15 days time from the date of service of notice to pay the cheque amount. The complainant is not entitled to reduce the statutory period. Cause of action arises only upon the statutory period of 15 days having elapsed and thus, the trial Court cannot be faulted for dismissing the complaint as premature.

There is no merit in the appeal. The same is accordingly dismissed.

January 21, 2019

Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No