

In the High Court of Punjab and Haryana at Chandigarh

CRM-A-1681-MA of 2015 (O&M)

Date of Decision: 05.11.2019

Surinder Kumar

.....Petitioner

Versus

Rajan Behl

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Balram Singh, Advocate
for the applicant.

None for the respondent.

HARNARESH SINGH GILL, J. (ORAL)

CRM-32949-2015

Through this application under Section 5 of the Limitation Act, prayer has been made for condonation of delay of 272 days, in filing the application for grant of leave to appeal.

For the reasons mentioned in the application, the same is allowed.

Delay of 272 days in filing application for grant of leave to appeal is condoned.

CRM-A-1681-MA-2015 (O&M)

Through the instant application under Section 378(3) Cr.P.C. prayer has been made for grant of special leave to file accompanying appeal against the order dated 29.10.2014, of the trial Court, whereby the complaint under Section 138 of the Negotiable Instruments Act, 1881, filed by the applicant was dismissed in default, on account of his non-appearance.

filed in the year 2007. Since, last 7 years, till the date of dismissal of complaint i.e. 29.10.2014, the applicant was regularly appearing on each and every date without any default. The punishment of dismissal of complaint awarded to the applicant is dis-proportionate to the act of applicant of non-appearance on a single date, in the last 7 years. The applicant would suffer irreparable loss, if the impugned order dated 29.10.2014, dismissing the complaint of the applicant is not set aside. The instant application has been filed, in view of the fact that the Magistrate, has no power to review his own order of dismissal of the complaint.

After giving anxious consideration to the submissions made by learned counsel for the applicant, this Court is of the considered opinion that nobody should be condemned unheard. Duty of the Courts is to impart justice to the litigants and not to non-suit them on technical grounds. In the instant case, only on a single default of the applicant or his counsel, his complaint was dismissed vide impugned order which is a very harsh step taken by the trial Court.

Considering the overall facts and circumstances of the case, the impugned order dated 29.10.2014, is set aside. The trial Court is directed to proceed further with the complaint of the applicant, in accordance with law, by restoring the same to its original number.

The instant Criminal Miscellaneous Application, stands disposed of, accordingly.

(HARNARESH SINGH GILL)
JUDGE

November 05, 2019

Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No