

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

**CRM-A-1738-MA-2015
DATE OF DECISION:-14.01.2019**

GURMEET SINGH

...APPLICANT...

V.

MUKHTIAR SINGH

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Puneet Kumar Bansal, Advocate,
for the applicant.

Mr. SPS Sidhu, Advocate,
for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 378 (4) Cr.P.C., prayer has been made for grant of leave to file appeal against order dated 15.12.2014, of trial court, whereby complaint under Sections 138 and 142 of the Negotiable Instruments Act, 1881 read with Section 420 IPC (for short, 'Act'), filed by applicant was dismissed in default, on account of his non-appearance.

In nutshell, applicant filed a complaint against the respondent on 09.03.2011 under Sections 138 and 142 of the Act and was regularly appearing on each and every date. However, applicant absented on 15.12.2014, on account of death of his mother on 15.12.2014, photocopy of death certificate is annexed as Annexure A-3, the aforesaid complaint

was dismissed by the trial court on a single default of non-appearance.

Heard.

This Court is of the considered view that applicant should not have been condemned unheard, inasmuch as, 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 overall facts and circumstances of the case, the impugned order dated 15.12.2014, 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.

Parties are directed to appear before the trial court on 31.01.2019.

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

Copy of this order be sent to concerned Judicial Magistrate for information and necessary action.

14.01.2019

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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:

Yes/No

whether reportable:

Yes/No