

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

CRM-A No.200-MA of 2014 (O&M)

Date of decision: 16.07.2019

Rohit Sharma

....Applicant/Appellant

Versus

Vikas Kumar Bhalla and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K. Bawa, Advocate for the applicant.

ARVIND SINGH SANGWAN J. (Oral)

This appeal is pending since 2014.

Prayer in this appeal is for setting-aside the order dated 26.08.2013, vide which the complaint filed by the applicant under Section 138 of the Negotiable Instruments Act, 1881 was dismissed on account of non-appearance of the applicant/complainant.

Counsel for the applicant has already placed on record the zimini orders passed by the trial Court (Annexures A-1 to A-12).

A perusal of the order dated 16.01.2012 show that the case was fixed for the complainant's evidence and the same was adjourned to 04.05.2012 as no witness of the complainant was present and last opportunity was granted. Thereafter, the case was transferred to some other Court. On 20.09.2012, again no complainant's witness was present and the case adjourned to 03.12.2012. The position remained same on 03.12.2012 and the case was adjourned for 11.01.2013 and on that date also, the complainant's witness was not present and the trial Court issued notice to the complainant for the next date i.e. 26.02.2013 and on 26.02.2013 the case was again adjourned for 16.04.2013,

however, later on, the complainant appeared.

Again on 16.04.2013, the complainant was not present and the case was adjourned for 04.06.2013 and on that date i.e. on 04.06.2013, the case was adjourned for 31.07.2013 and the trial Court issued notice to the complainant and on 31.07.2013, the notice issued to the complainant was received back unserved as the address was not correct. The trial Court, thereafter, vide impugned order dated 26.08.2013 noticing the aforesaid orders and also noticing the fact that the complainant/petitioner is not interested in pursuing the complaint as he has failed to examine his witnesses and subsequently, he failed to appear before the trial Court, even when notices were issued to him, dismissed the complaint.

The counsel for the applicant has argued that the non-appearance of the applicant is bona fide and therefore the impugned order be set-aside.

After hearing the counsel for the applicant, I find no merit in the present appeal. The trial Court has taken all endeavour to make sure that the applicant/complainant remain present and produce his evidence however, the applicant/complainant willfully remain absent from the Court proceedings and has not allowed the trial Court to proceed further as no evidence was produced.

In view of the above, I do not find any ground to interfere in the impugned order dated 26.08.2013 and the appeal is dismissed, accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

16.07.2019

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No