

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-2071-MA-2015 (O&M)

Date of Decision: 21.01.2019

M/s Jatindra Udyog

.... Applicant

Versus

M/s Hex Nuts Pvt. Ltd. and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Yogesh Goel and Dr. Rajnish Thukral, Advocates
for the applicant.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 378(4) Cr.P.C., prayer has been made for grant of special leave to file accompanying appeal against the judgment of trial Court, dated 30.10.2015, whereby complaint filed by the applicant under Section 138 of the Negotiable Instruments Act, 1881 (for short -'the Act') against the respondents was dismissed.

Briefly, applicant filed a complaint under Section 138 of the Act, against the respondents which after holding trial was dismissed by the trial vide impugned judgment dated 30.10.2015 and the respondents were acquitted.

Learned counsel *inter alia* contends that the applicant had filed two complaints under Section 138 of the Act against two firms i.e. Hex Nuts Pvt. Ltd. and another (respondents herein) and M/s Hind Fasteners and others. However, both were tried together. The learned trial Court, after holding trial illegally and erroneously dismissed the

complaint treating the evidence of applicant as 'Nil', while reading the evidence led by the applicant in this case in other complaint filed against M/s Hind Fasteners and others.

Having given considerable thought to the submissions of learned counsel for the applicant, this Court finds merit acceptance of this application for the reasons to follow:

The evidence led amongst the parties in this case could not have been read in some other case filed by the applicant. Admittedly, the impugned complaint was filed by the applicant against M/s Hex Nuts Pvt. Ltd. through its proprietor-Sh. Jatinder Mittal, but the trial Court considering the cross-examination of applicant in other complaint filed against M/s Hind Fasteners and others, has wrongly and erroneously dismissed the complaint of the applicant.

Considering the above factual aspect of the case, the instant Criminal Miscellaneous Application, is accepted and impugned judgment of the trial Court dated 30.10.2015, dismissing the complaint of applicant is set aside. Trial Court is directed to allow the applicant to lead its complete evidence and decide the matter afresh.

The parties are directed to appear before the trial Court on or before 01.02.2019.

Registry is directed to send a copy of this order to the trial Court for compliance.

January 21, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No