

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-2083-MA-2015 (O&M)

Date of Decision: 21.01.2019

M/s Jatindra Udyog

.... Applicant

Versus

M/s Hind Fasteners and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

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

RAMENDRA JAIN, J. (ORAL)

As per office report, respondents have been served, but none has put in appearance on their behalf.

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 different firms i.e. M/s Hex Nuts Pvt. Ltd. and another and M/s Hind Fasteners and others (respondents herein). However, both were tried together, but the learned trial Court after holding trial, illegally and erroneously dismissed the complaint of applicant for want of sufficient evidence which was led by the applicant in another complaint against M/s Hex Nuts Pvt. Ltd. and another, in this complaint, ignoring the fact that evidence of some other case could not have been read in this case. To clarify, the evidence discussed by the trial Court in this case pertains to evidence led by the applicant in its complaint against M/s Hex Nuts Pvt. Ltd., as is clear from para 10 of the impugned judgment.

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