

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-A-1207 of 2019
Date of Decision: November 22, 2019.

Aditya Dhiman

.....Appellant.

versus

Parvinder Kaur

.....Respondent

CORAM: HON'BLE MR.JUSTICE MANOJ BAJAJ.

Present: Mr.Naresh Kumar Lambra, Advocate, for the appellant.

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Manoj Bajaj, J. (Oral)

This application has been filed under Section 378(4) Cr.P.C. with a prayer to grant special leave to appeal from the order dated 07.02.2019 passed by the learned Judicial Magistrate, 1st Class, Dera Bassi, whereby Criminal Complaint No.429 dated 29.11.2016 titled as Aditya Dhiman versus Parvinder Kaur, under Section 138 of the Negotiable Instruments Act, 1881 read with Section 420 IPC, filed by the appellant has been dismissed in default.

Learned counsel for the applicant contends that the complainant and his counsel did not appear on 07.02.2019 and the Court has proceeded to pass the extreme order of dismissal of the complaint for want of prosecution. He further submits that the applicant was regularly appearing before the trial Court. The absence of the applicant on 07.02.2019 was neither willful nor intentional as he has noted the wrong date. Learned counsel further submits that when the complaint was dismissed, the case was at the stage of adducing pre-summoning evidence of the case in the complaint is restored, no prejudice would be caused to the other side who is

yet to be summoned.

The impugned order strictly does not amount to acquittal and, therefore, on the oral request of the applicant, the application is treated under Section 482 Cr.P.C.

At this stage, it may not be necessary to issue notice to the accused, as it may cause burden upon him to contest this appeal, wherein the prayer is for restoration of the complaint.

This Court finds that the explanation offered for the absence of the appellant is reasonable and accepted. It is to be borne in mind that many a times the complainant or counsel can be prevented by sufficient reasons on a given date from putting in appearance before the Court and every such absence necessarily cannot be construed as deliberate or willful.

Considering the above, the impugned order dated 07.02.2019 is set-aside and the complaint is restored to its original number, and the trial Court shall proceed with the complaint in accordance with law.

CRM stands disposed off.

November 22, 2019
mohinder

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No