

**CRM-25212-2017 in/and
CRM-A-1776-MA-2017**

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

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**CRM-25212-2017 in/and
CRM-A-1776-MA-2017
Date of Decision:03.05.2019**

SOHAN SINGH

...APPLICANT

VERSUS

JANAK SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Puja Chopra, Advocate
for the applicant.

MANOJ BAJAJ, J.

CRM-25212-2017

For the reasons stated in the application, delay of 9 days in filing the application seeking leave to appeal is condoned.

Application is allowed.

Main Case

This application has been filed to challenge the order dated 15.05.2017 passed by the learned Judicial Magistrate Ist Class, Patiala whereby the complaint registered under Section 138 of the Negotiable Instruments Act read with Section 420 of IPC, was dismissed for want of prosecution.

Learned counsel appearing on behalf of the applicant contends that on 15.05.2017 the applicant was not well and could not apprise his counsel regarding his difficulty, therefore, vide impugned order dated

15.05.2017 his complaint was dismissed for want of prosecution. Learned counsel further contends that the absence was not intentional or mala fide. He further submits that the applicant was regularly appearing before the trial Court.

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 respondent, as it may cause burden upon him to contest this application, wherein the prayer is for restoration of the complaint.

This Court finds that the explanation offered for the absence of applicant 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 wilful.

Considering the above, the impugned order dated 15.05.2017 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.

Disposed off.

03.05.2019
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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No