

CRM-A-1451-MA of 20116

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

CRM-A-1451-MA of 2016
Date of Decision: 20.01.2020

Sanjay Kumar

....Applicant

Versus

M/s Cool CABS and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Rajesh Arora, Advocate, for the applicant.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 378(4) Cr.P.C., prayer has been made for grant of leave to file appeal against order dated 08.07.2016, of trial Court, whereby complaint under Section 138 read with Sections 141/142 of the Negotiable Instruments Act, 1881, filed by applicant was dismissed in default, on account of his non-appearance.

Learned counsel *inter alia* contends that dismissal of complaint of the applicant by trial Court vide impugned order on account of single default of non-appearance, is disproportionate and harsh in view of the fact that applicant was appearing throughout on each and every date prior to that date.

After giving anxious thought to the submissions made by learned counsel for the applicant, this Court is of the considered view that applicant should not be condemned unheard inasmuch as duty of the Courts is to impart justice to the litigants and not to non-suit them on

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technical grounds. In the instant case, only on a single default of the applicant or his counsel, his complaint was dismissed vide impugned order which is a very harsh step taken by the trial Court.

Considering overall facts and circumstances of the case, impugned order dated 08.07.2016, is set aside subject to deposit of ₹5,000/- as costs with the District Legal Services Authority, Gurugram. The trial Court is directed to proceed further with the complaint of the applicant after procuring presence of the respondent, in accordance with law, by restoring the same to its original number. Applicant is directed to appear before the trial Court on 24.02.2020.

The instant Criminal Miscellaneous Application, stands disposed of, accordingly.

January 20, 2020
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No