

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

**CRM-A-120-MA-2017 (O&M)
Date of Decision : 28.01.2020**

M/s Shree Ambika Sanitary & Hardware Store Applicant

Versus

Raman Kumar Respondent

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Vineet Chaudhary, 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 25.05.2016, of trial Court, whereby complaint under Section 138 of the Negotiable Instruments Act, 1881, filed by applicant was dismissed in default, on account of its non-appearance.

Learned counsel *inter alia* contends that dismissal of complaint of the applicant by trial Court vide impugned order on account of a single default of his 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 technical grounds. In the instant case, only on a single

default of the applicant or its counsel, its 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 25.05.2016, is set aside subject to deposit of Rs.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 respondent, in accordance with law, by restoring the same to its original number. Applicant is directed to appear before the trial Court on 12.02.2020.

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

28.01.2020

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(RAMENDRA JAIN)
JUDGE

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