

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-17122 of 2018 (O&M)

Date of decision : 24.2.2020

...

Gurdip Singh Ghuman

.....Petitioner

vs.

Simmerpal Singh Somal

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Rajesh Narang, Advocate for the petitioner.

...

H. S. Madaan, J. (Oral)

Complainant – Gurdip Singh Ghuman, had filed a complaint under Section 138 of the Negotiable Instruments Act, against accused Simmerpal Singh Somal. That complaint was pending in the Court of Judicial Magistrate Ist Class, Chandigarh. On 19.7.2017, when the case was fixed for preliminary evidence of the complainant, since there was no representation on behalf of the complainant, the complaint was dismissed for non-prosecution, which left the complainant aggrieved and he has approached this Court by way of filing the present petition under Section 482 Cr.P.C.

I have heard learned counsel for the petitioner, besides going through the record.

The complaint in question is stated to have been filed on account of dishonour of cheque in the sum of Rs.10 lacs issued by the accused in favour of the complainant, on account of insufficiency

of funds and his failure to make the payment of cheque amount within 15 days of the receipt of notice served by the complainant upon him. That complaint is stated to have been filed on 17.4.2017 and it was listed on 18.4.2017 and then adjourned to 31.5.2017 for recording of preliminary evidence. Thereafter, it was adjourned to 19.7.2017, when the impugned order was passed.

It is stated that non-appearance of the complainant in the court was not intentional or willful, but due to wrong noting down of the date in as much as the next date of hearing had been noted down by the complainant as 26.7.2017 instead of 19.7.2017. The explanation given is probable. Even otherwise the petitioner having pursued the matter, leading to filing of complaint, it is unlikely that he would have left it midway and absented from the Court, showing disinterest in the matter, the trial Court seems to have acted in a little bit of haste in dismissing the complaint. Otherwise it is always desirable to decide a lis on merits, rather than non-suiting a person on technical grounds.

Therefore, the petition is accepted and order dated 19.7.2017 is set aside and the complaint is directed to be registered at its original number. The trial Court shall continue with the proceedings from the stage when it was so dismissed.

24.2.2020
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No