

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

CRM-M-4797-2017 (O&M)
Date of decision: 03.03.2020

Palwinder Kaur

...Petitioner

Versus

Prabhjit Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. H.S. Batth, , Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Complainant Palwinder Kaur had brought a complaint under Sections 138, 141 and 142 of the Negotiable Instruments Act against accused Prabhjit Singh. The complaint was case fixed for 01.06.2016 before JMJC, Patti when it was dismissed in default for want of prosecution. The complainant has challenged that order before 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 was for the reason that the accused had issued a cheque in the sum of Rs.10 lacs dated 16.07.2015 in favour of the complainant on account of discharge of a financial liability, however, on presentation, the cheque was received back uncashed due to insufficiency of funds in the account of the accused. The complainant had served a legal notice upon the accused calling upon him to make payment

of cheque amount within 15 days of receipt of legal notice but to no effect. As such, she had filed the complaint in question.

After recording of preliminary evidence, the accused was summoned and as stated by learned counsel for the petitioner, the case was at the stage of issuing bailable warrants of arrest against the accused when it was dismissed for non-prosecution.

After hearing learned counsel for the petitioner and going through the record and impugned order, I find that the Trial Magistrate acted in somewhat hurried manner in dismissing the complaint for non-prosecution. The complainant having pursued the matter by serving notice upon the accused after being informed regarding dishonouring of the cheque, then filing the complaint, leading preliminary evidence, it is difficult to believe that she would not like to pursue the matter involving the cheque for substantial amount of Rs.10 lacs. There is nothing on record to show that the petitioner/complainant is a habitual defaulter or had been adopting very casual attitude towards pursuing the present complaint. Therefore, the present petition is accepted; the impugned order is set aside and the complaint is ordered to be restored at its original number. A direction is issued to JMIC, Patti to proceed with the matter from the stage when it was dismissed in default. The petitioner through counsel is directed to appear there on 25.03.2020.

03.03.2020

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(H.S. MADAAN)
JUDGE

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