

CRA-S-4-2022

Reserved on 29.4.2022

Pronounced on : July 14, 2022

Bajrang Electric Company

.....Appellant

Vs.

Shree Krishan Electronic Valley

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr.Sanchit Punia, Advocate for the appellant.

Mr. Akshat Sharma, Legal Aid Counsel for the respondent

ANOOP CHITKARA J.

Criminal Complaint	No. NACT/2033/2018, under Section 138 of the Negotiable Instruments Act, District Hisar
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Feeling aggrieved by the trial court's order, dismissing the complaint in default due to the complainant’s non-appearance, the complaint has come up before this Court by filing the above-mentioned appeal.

2. A perusal of the impugned order dated 19-10-2021, passed by Ld. JMIC, Exclusive Court N.I.Act, Hisar, reveals that despite waiting till the end of the court hours, the complainant failed to appear, and the court proceeded to dismiss the complaint in default by presuming that the complaint was not interested to pursue it.

3. The explanation offered by the complainant in paragraphs of this appeal is that the non-appearance was due to misunderstanding. By the time the complaint’s counsel checked the case, it had already been dismissed.

4. Despite service, the accused respondents did not choose to appear and this court proceeded by appointing a legal aid counsel.

5. I am satisfied by the explanation offered for non-appearance and as such on this ground alone, the impugned order is set aside.

6. There is another aspect of the matter. On 19-10-2021 the matter was listed for

compromise and the complainant did not appear in compromise and the court proceeded further to dismiss the complaint for want of prosecution. Ld. court forgot that there was no prosecution on the day when the matter was listed for compromise. The appeal is allowed even on this ground.

7. Considering the facts and circumstances peculiar to this case, the appeal is allowed and the impugned order is set aside and let the trial proceed further in accordance with law.

Appeal allowed.

All pending application(s), if any, stand closed.

(ANOOP CHITKARA)
JUDGE

July 14, 2022
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Whether speaking/reasoned: Yes
Whether reportable: **No.**