

235 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-A-939-MA-2017 (O&M)
Date of Decision: 12th May, 2022

Punjab State Civil Supplies Corporation Limited

Appellant

Versus

M/s Guru Kripa Rice Mills and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Abhilaksh Gaind, Advocate for the appellant.

Mr. Rishab Kumar Jain, Advocate for respondents.

AVNEESH JHINGAN, J (Oral):

1. The applicant is before this Court aggrieved of dismissal of complaint filed under Section 138 of Negotiable Instruments Act, 1881 for non-prosecution. The application is moved for grant of leave to file the appeal.
2. The applicant is a corporation. Due to non-presence of complainant witnesses on three consecutive dates, the complaint was dismissed for non-prosecution.
3. The reasons mentioned for non-appearance is that there was a transfer of District Manager who was dealing with the complaint. The procurement season was on and the new official who took over charge and was not aware of the pending proceedings.
4. The application is allowed.

5. Leave is granted to file the appeal.
6. With the consent of learned counsel for both the parties, the appeal is taken up for hearing today itself.
7. Learned counsel for the respondents opposes the appeal and submits that with the dismissal for non prosecution amounts to acquittal of the accused.
8. A reasonable explanation has been putforth by the appellant for non-appearance on three dates before the trial Court. It is desirable that a complaint should be decided on merits rather than on technicality i.e. dismissal-in-default.
9. The impugned order is set aside.
10. The matter is remanded back to the trial Court to proceed with the complaint from the stage it was at as on 17th October, 2016. However, considering that the dispute is with regard to the year 2013, it would be desirable that an earnest efforts would be made to dispose of the complaint expeditiously, preferably within one year.
11. In order to avoid further delay, let the parties appear before the trial Court on 26th May, 2022.
12. Appeal is disposed of.
13. Since the main case has been decided, the pending application, if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

12th May, 2022
parveen sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |