

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

**CRA-AS-191-2017
DECIDED ON: 24.11.2022**

SUDHIR YADAV

.....APPELLANT

VERSUS

MANGE RAM

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Anand Kumar Bishnoi, Advocate
for the appellant.

None for the respondent.

SANDEEP MOUDGIL, J (ORAL)

The present appeal has been preferred against the order dated 01.02.2017, passed by learned Judicial Magistrate Ist Class, Gurgaon, wherein the complaint of the complainant has been dismissed in default.

Learned counsel for the appellant submits that the complaint under Section 138 of Negotiable Instruments Act, 1881, was dismissed for non-prosecution vide order dated 01.02.2017, passed by the learned Judicial Magistrate Ist Class, Gurgaon, against which the present appeal has been preferred.

He also asserts that the dismissal in default in a complaint case under Section 138 of the Negotiable Instruments Act, 1881, amounts to dismissal of the complaint and remedy of appeal lies and as such instant appeal was preferred.

It was the sole occasion when the complainant did not put in

appearance on account of noting down wrong date by the counsel for the complainant and under that bona fide mistake, such absence had occurred.

To meet the ends of justice, this Court deems it appropriate to remand the case back for adjudication of the complaint on merits and, hence, the order dated 01.02.2017, passed by learned Judicial Magistrate Ist Class, Gurgaon is set aside and the matter is remanded back to the Court below for a fresh adjudication on merits.

The appeal stands disposed of, in above terms.

(SANDEEP MOUDGIL)
JUDGE

24.11.2022

Poonam Negi

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>