

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

227

CRM-M-48989-2019

Date of Decision: 01.12.2022

Harinder Saini

..... Petitioner

Versus

M/s Smartcity Developers Pvt. Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. S.K.Tripathi, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking quashing of order dated 03.01.2018 (Annexure P-2) whereby learned JMIC, Gurugram has dismissed the complaint of the petitioner filed under Section 138 of the Negotiable Instruments Act, 1881 read with Section 420 IPC.

Learned counsel for the petitioner submits that the complaint was initially filed at Rewari, however, subsequently due to change of law, the complaint was transferred to Courts at Gurugram. The petitioner was not aware of the fact qua transfer of complaint at Gurugram. Therefore, the petitioner could not appear before the Courts at Gurugram on the given date. Learned trial Court on account of non-appearance of complainant-petitioner has dismissed the complaint in default. The non-appearance of the petitioner before the trial Court was unintentional and it occurred on account of peculiar facts which were beyond the control of the complainant-petitioner.

I have perused the record and heard arguments of learned counsel for the petitioner.

Learned trial Court has dismissed the complaint on the sole ground that the complainant was not present before trial Court on 03.01.2018, on which date the matter was listed.

In view of reasons assigned by learned counsel, this Court finds that the present petition deserves to be allowed and complaint needs to be restored to its original number. Accordingly, the petition is allowed and complaint No.9713 dated 23.01.2015 titled as “Harender Saini vs. M/s Smartcity Developers Pvt. Ltd. And ors.” is restored to its original number and trial Court is directed to proceed in accordance with law.

The petitioner at the first instance shall appear before trial Court on 12.12.2022.

(JAGMOHAN BANSAL)
JUDGE

01.12.2022
anju

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