

232 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:052943

CRM-A-315-MA-2017

Date of Decision: April 17, 2023

N.K. Communications Engineers

... Applicant-appellant

Versus

Ridaus Auto Components Pvt. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ashwani Gaur, Advocate for the applicant-appellant.

DEEPAK GUPTA, J.(Oral)

Respondent has been duly served, as per report of the Registry. However, there is no representation on behalf of respondent.

2. Complaint under Section 138 of the Negotiable Instruments Act, 1881, bearing No.498/2015, titled as “*N.K. Communications Engineers v Ridaus Auto Components Pvt. Ltd.*” filed by the applicant-appellant was pending before learned Judicial Magistrate 1st Class, Gurgaon, on 06.01.2017 when it was dismissed in default for want of prosecution. Aggrieved by this order, this application for grant of leave to appeal has been filed by the applicant-complainant.

3. It is pointed out by learned counsel for the applicant-complainant that on 17.11.2016, statement of accused under Section 313 Cr.P.C. was recorded and the case was adjourned for defence evidence and arguments. There is cutting in the next date of hearing. Attention is then drawn towards the envelop of the counsel for the applicant-complainant, representing him before the Trial Court, wherein he had noted the next date of hearing from 17.11.2016 to 07.12.2016 and then 21.01.2017. Learned counsel has also pointed out toward the cause list dated 07.12.2016 of the Trial Court (Annexure A4) revealing that there is a confusion as to whether the complaint case was adjourned to

4. Not only above, on 06.01.2017, though the case was fixed for recording the statement of respondent-accused under Section 313 Cr.P.C., even nobody had made appearance on behalf of respondent-accused.

5. In the aforesaid circumstances, it appears that there was some confusion regarding the next date of hearing. Considering all these facts and circumstances, the impugned order dated 06.01.2017 is hereby set aside. The Trial Court is directed to restore the complaint at its original number and proceed further in accordance with law.

Disposed of.

April 17, 2023
sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No