

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

**CRM-5715-2017 in/and
CRM-A-357-MA-2017
Date of Decision: March 01, 2023**

Raj Kumar

... Applicant-appellant

Versus

Jasbir Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ashok Kumar Khubbar, Advocate
for the applicant-appellant.

None for the respondent.

DEEPAK GUPTA, J.(Oral)

As per report of the Registry, respondent was duly served.

However, there is no representation on his behalf.

CRM-5715-2017

This is an application to condone the delay of 15 days in filing the application for grant of leave to appeal.

For the reasons mentioned in the application, delay of 15 days in filing the application for grant of leave to appeal is condoned.

Application is allowed.

CRM-A-357-MA-2017

Complaint bearing NIA 2121/25, titled as “*Raj Kumar v. Jasbir Singh*” was dismissed in default for want prosecution, vide order dated 22.11.2016 of learned Judicial Magistrate 1st Class, Yamuna Nagar, against which this appeal has been filed.

It is revealed that on the date when the complaint was dismissed in default by that time respondent-accused had not been served. The impugned order was passed as complainant-appellant had failed to deposit the publication charges and also the adjournment cost of

Rs. 500/- in Legal Aid Cell.

CRM-5715-2017 in/and CRM-A-357-MA-2017

It is contended that applicant-appellant was not informed by his counsel for making compliance of the order i.e. to deposit publication charges and to deposit cost.

Without commenting anything on the merits of the case, the impugned order dated 22.11.2016 is hereby set aside. The impugned order in fact appears to be quiet harsh as the respondent-accused has not been even served when the complaint was dismissed in default. Learned Trial Court is directed to restore the complaint at its original number and proceed further in accordance with law. However, this shall be subject to cost of Rs.10,000/- to be deposited by the applicant-appellant/complainant in the District Legal Services Authority, Yamuna Nagar.

Disposed of.

March 01, 2023

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**(DEEPAK GUPTA)
JUDGE**

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No