

107

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-AS-93-2023

Date of Decision: February 23, 2023

Harkirat Singh

.....Appellant

Versus

Ramesh Kumar

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.J.K.Singla, Advocate
for the appellant.

Mr.Ram Lal Gupta, Advocate
for the respondent.

.....

RAJESH BHARDWAJ, J.(ORAL)

Instant appeal has been filed challenging the order dated 06.11.2015 passed by learned JMIC, Bathinda, District Bathinda, vide which complaint filed under Section 138 of the Negotiable Instruments Act was dismissed in default for non-appearance of the complainant.

Counsel for the appellant has submitted that the appellant filed a complaint under Section 138 of Negotiable Instruments Act before the Court of learned Magistrate, however, the same was dismissed for non-prosecution on 06.11.2015 as due to unavoidable circumstances, appellant could not appear on that date. He submits that appellant duly filed an application for restoration of complaint dismissed for non-prosecution, however, learned Magistrate, vide order dated 28.07.2016 dismissed the same on the ground that there is no provision in Cr.P.C. or in the Negotiable Instruments Act to restore the complaint once it was dismissed in default.

Though the appellant made an attempt by way of filing an application for

restoration of the same, however, learned trial Court declined the same having not finding any provision in Cr.P.C. or in the Negotiable Instruments Act to restore the same. It is prayed that the complaint be restored by quashing the order dated 06.11.2015 so that the case be heard and decided on merits.

Notice of motion.

Mr.Ram Lal Gupta, Advocate, who is present in Court, accepts notice on behalf of the respondent and has opposed the submissions made by counsel for the appellant.

However, after hearing counsel for the parties and going through the record, this Court finds that the complaint was dismissed for non-prosecution and was not heard on merits. It is an appropriate case in which this Court would invoke its inherent powers under Section 482 Cr.P.C. to meet the ends of justice.

Resultantly, appeal is allowed. Impugned order is set aside. Trial Court is directed to restore the complaint to its original number and decide the same on merits in accordance with law after affording an opportunity of being heard to both the parties.

February 23, 2023
meenuss

(RAJESH BHARDWAJ)
JUDGE

- | | |
|---------------------------------------|---------------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |