

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

257

CRM-M-37751-2018 (O&M)

DATE OF DECISION : 01.08.2023

PARVEEN KUMAR

...PETITIONER

VERSUS

MOHARA SINGH

...RESPONDENT

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms.Neeru Bansal, Advocate,
for the petitioner.

ARUN MONGA, J,(ORAL)

1. Present petition has been filed by the petitioner seeking quashing of the impugned order dated 25.05.2018 (Annexure P-2) passed by learned Judicial Magistrate First Class, Bhiwani, whereby complaint filed by petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act') was dismissed for want of prosecution.

2. Learned counsel for the petitioner submits that the case was fixed for 25.05.2018 for effecting the service upon accused before the trial Court. On that date the counsel could not appear in Court as he missed the date and consequently, the complaint of the petitioner was dismissed for want of prosecution vide impugned order dated 25.05.2018. He further submits that non-appearance of the counsel was not intentional and willful and there exists no remedy for restoration in the trial Court. Hence, the present petition.

3. Given the nature of order being passed, service upon respondent is dispensed with at this stage.

4. Heard.

5. Perusal of the file shows that the trial is at the initial stage and non-appearance of the counsel in the trial Court was not willful or intentional but due to the detailed reasons mentioned in the petition. The petitioner should not suffer due to the fault of the counsel. In order to meet the ends of justice, the present petition is allowed and the complaint bearing case No.COMA/696/2015, is ordered to be restored to its original number and status, subject to payment of costs of Rs.2,000/- to be deposited with High Court Legal Services Committee, which shall be a condition precedent. If the costs are not paid, as directed, the impugned order shall stand restored.

6. Pending application(s), if any, shall also stand disposed of.

01.08.2023

‘D’Vir/R

(ARUN MONGA)
JUDGE

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