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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-AS-361-2023 (O&M)

Date of decision: 02.08.2023

GAURAV TANEJA

...Appellant

VS

VINAY JAIN

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Varun Gupta, Advocate,
For the appellant.

ARUN MONGA, J. (ORAL)

Present appeal has been filed by the appellant against order/judgment dated 13.09.2018 passed by learned Judicial Magistrate First Class, Gurugram whereby complaint filed by appellant against respondent-accused for commission of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, was dismissed for want of prosecution, which resulted into acquittal of respondent/accused.

2. Learned counsel for appellant submits that complaint was dismissed for non-prosecution and consequently respondent was acquitted. He further contends that absence of the complainant before learned Court below was not intentional rather on account of noting down a wrong date of hearing. Thus, the impugned order is liable to be set aside.

3. I have heard learned counsel for appellant and have perused the casefile carefully.

4. It is borne out from the record that the impugned order was passed in the absence of the complainant. Complainant has given plausible explanation for his non-appearance. This Court finds the explanation to be cogent, therefore, the appeal is allowed subject to costs of Rs.10,000/- to be deposited in District Legal Services Authority, Gurugram which shall be a condition precedent and impugned judgment/order dated 13.09.2018 passed by learned Judicial Magistrate First Class, Gurugram is set aside. If the costs are not paid, as directed, the impugned order shall stand restored.

Complaint is revived to its original number and stage. Appellant is directed to appear before learned Court below on 02.09.2023 for further proceedings.

5. Needless to say, proceedings before learned Court below to commence/continue, in accordance with law.

(ARUN MONGA)
JUDGE

02.08.2023
vandana

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