

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

237

CRM-A-837-2022 (O&M)
Date of decision: 09.08.2023

Mahender

...Applicant

Versus

M/s Ranbir Singh Omparkash and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rahul Jaswal, Advocate for the applicant.

Mr. Manoj Kumar Taya, Advocate for respondent Nos.1 and 2.

Ms. Ankita Ahuja, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the application is for setting aside the judgment/order dated 04.08.2022 passed by the learned trial Court in criminal complaint filed under Section 138/142 of the Negotiable Instruments Act titled as ‘Mahender Vs. M/s Ranbir Singh Om Parkash and another’, bearing No.NACT-466-2019 instituted on 22.02.2019, vide which the same has been dismissed for non-prosecution and to restore the same to its original number with a direction to decide the same on merits.

Learned counsel for the applicant submits that the respondent-accused Sanjeev Kumar, was declared as a proclaimed person on 14.03.2022 and direction was issued by the learned trial Court to the police to initiate the investigation under Section 174-A IPC and file was consigned to the record

room. The respondent-accused appeared before the learned trial Court on 01.07.2022 and notice was issued to the applicant-complainant for 04.08.2022, which was received by him on 03.08.2022 and due to health problem of his son, the applicant could not appear on the said date before the learned trial Court. The non-appearance of the applicant before the learned trial Court was not intentional. In support of his case, he relies upon the order dated 06.01.2023 passed by a Coordinate Bench in CRM-M-369-2023 tilted as 'Aman Motors Vs. Jagdish Kumar'.

Learned counsel for respondent Nos.1 and 2 and learned State counsel, submits that no cogent reason has been shown by the petitioner-complainant for non-appearance on the 04.08.2022 before the learned trial Court and thus, the complaint has rightly been dismissed for non-prosecution by the learned Judicial Magistrate 1st Class, Panipat.

I have heard the learned counsel for the parties and have also gone through the documents on record.

In the present case, during the pendency of the complaint under Section 138/142 of the Negotiable Instruments Act, the respondent-accused was declared as a proclaimed person on 14.03.2022 and the file was consigned to record room. Thereafter, when respondent No.2-accused surrendered before the learned trial Court, the petitioner-complainant was summoned for 04.08.2022 vide order dated 01.07.2022, which was served upon him on 03.08.2022 and due to health problem of his son, he could not appear before the learned trial Court, which appears to be non-intentional on his part.

In view of the above, the order dated 04.08.2022 passed by the learned trial Court in criminal complaint filed under Section 138/142 of the Negotiable Instruments Act titled as ‘Mahender Vs. M/s Ranbir Singh Om Parkash and another’, bearing No.NACT-466-2019 instituted on 22.02.2019, is set aside subject to him depositing the costs of Rs.10,000/- with the District Legal Services Authority, Panipat and the complaint is restored to its original number and the learned trial Court is directed to proceed further in accordance with law.

Disposed of.

09.08.2023

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No