

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

CRM-M-48343-2023

Date of Decision:25.09.2023

Rajesh Saini

.....Petitioner

Vs.

Suman Bala

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Mitul Singh Rana, Advocate &
Mr. Rohtash Singh Brar, Advocate
for the petitioner.

DEEPAK GUPTA, J.(ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. is to set aside the impugned order dated 18.08.2023 (Annexure P-3) passed by learned Addl. CJM, Hoshiarpur, whereby complaint bearing No. NACT-13-2019 titled as 'Rajesh Saini Vs. Suman Bala' under Section 138 of the Negotiable Instruments Act was dismissed in default.

2. Learned counsel contends that petitioner being the complainant of the case was regularly appearing in the Court. Matter was adjourned to 04.08.2023 from 21.07.2023 for filing reply of the application under Section 143-A of the Negotiable Instruments Act by respondent- accused. On 04.08.2023, case was adjourned to 18.08.2023 for serving notice to the complainant as complainant could not appear on 04.08.2023. However, despite the fact that no notice was served upon the complainant, the complaint was dismissed in default on 18.08.2023.

3. Learned counsel contends that in fact his counsel before the Trial Court had noted the next date of hearing on 21.07.2023 to 21.08.2023.

To fortify his contention, learned counsel has placed on record copy of the brief of the counsel for the petitioner appearing before the Trial Court, revealing that on his envelope he has carried forward date of hearing from 21.07.2023 to 21.08.2023.

4. There appears to be genuine mistake in noting down the next date of hearing on the part of counsel for the petitioner- complainant. Apart from this, when the complaint was dismissed in default for want of prosecution, nothing was required to be done by the complainant as the case was fixed for consideration of application under Section 143-A of Negotiable Instruments Act after filing of the reply by respondent- accused.

5. Having regard to aforesaid facts and circumstances, the impugned order dated 18.08.2023, is hereby set aside.

6. Learned Trial Court is directed to restore the complaint at its original number and proceed further in accordance with law. This order has been passed without serving any notice to respondent in order to avoid wastage of time.

7. In case, respondent is aggrieved by this order, she may move necessary application before this Court.

(DEEPAK GUPTA)
JUDGE

September 25, 2023

Neetika Tuteja

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No