

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-27254-2016 in/and CRM-A-1560-MA-2016 (O&M)

Date of Decision: 04.07.2024

M/s SBM Electric Techno P.Ltd.

... Petitioner

VS.

Lumax Automative Systems Ltd. & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanjeev Kumar Panwar, Advocate for applicant/appellant

Sandeep Moudgil, J.

CRM-27254-2016

For the reasons mentioned in the application, the same is allowed and the delay of 80 days in filing the appeal is hereby condoned.

CRM stands disposed of.

CRM-A-1560-MA-2016

(1). This appeal under Section 378(4) CrPC has been filed by the appellant seeking to quash the impugned order dated 18.03.2016 passed by the JMIC, Gurgaon vide which the complaint No.5785/15 dated 03.10.2015 filed by the appellant under Section 138/142 of Negotiable Instruments Act, 1881 (in short, the 1881 Act) has been dismissed in default for non-prosecution.

(2). Learned counsel for the appellant submits that due to wrong noting of date as 18.04.2016 instead of 18.03.2016, by counsel before the trial court, the appellant-complainant remained unrepresented and since the non-presence on the part of the appellant was unintentional and not deliberate but due to reason noting down of date, the impugned order is liable to be set aside. It is also urged that the appellant would suffer irreparable loss of Rs.1,50,000/- due towards the respondent.

(3). Taking into consideration the totality of the circumstances, this appeal is allowed and the order dated 18.03.2016 is set aside and the appellant-complainant is relegated before the court below to urge and plead his case for which the trial court shall provide due opportunity to lead evidence to the parties. The appellant-complainant shall appear before the court below on 25.11.2024, which shall make an endeavour to decide the matter expeditiously since the complaint was dismissed in default way back in the year 2016.

(4). Ordered accordingly.

04.07.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

Yes/No
Yes/No