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2024:PHHC:010946

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39785-2015
DECIDED ON: 24th JANUARY, 2024

M/S AMARNATH ROSHAN LAL

....PETITIONER

VERSUS

SUJATA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanjay Verma, Advocate
for the petitioner.

None for the respondent.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, has been invoked seeking the quashing of the order dated 25.09.2013 passed by the Court of Judicial Magistrate Ist Class, Gurgaon vide which the criminal complaint under Sections 138, 142 of Negotiable Instrument Act, 1881 and Section 420 IPC, has been dismissed for non-prosecution.

2. Brief facts of the case are that a complaint under Section 138, 142 of Negotiable Instrument Act, 1881 and Section 420 IPC has been moved by the petitioner against the respondent-accused alleging that in lieu of discharge of legal liability respondent-accused had issued a cheque for an amount of Rs,2,78,904/-. On presentation of the same, it was returned

unpaid by the banker i.e. Karnataka Bank Ltd. for the reason “02-Exceeds arrangement” meaning thereby, the cheque has been dishonoured due to insufficient funds in the accused's account.

4. It has been contended by learned counsel for the petitioner that the petitioner could not appear in the Court on 25.09.2013 before the learned trial Court and due to non-appearance the complaint was dismissed for non-prosecution. It is further contended that the petitioner could not appear before the trial Court on 25.09.2013, as he was not well and he has to go to the doctor for treatment. The petitioner came to know the dismissal of his complainant on 01.10.2013, when he visited the Court. Since an assurance was given to the petitioner from the respectable persons that the amount would be paid to him, he opted not to pursue the case with the hope that the matter would be resolved amicably out of court settlement. Despite various assurance, the accused respondent has not paid the amount and the mediators to the said dispute have also expressed their inability to materialise the assurance given to the petitioner, the present petition has been filed for the restoration of the complaint in its original form, number and stage.

5. Without commenting upon the merits of the case, the present petition is disposed off with a direction to learned trial Court to decide the matter afresh on merits preferably within a period of six months from the date of receipt of certified copy of this order. However, the said direction would be subject to payment of cost of Rs.10,000/- to be deposited with the Punjab and Haryana High Court Bar Association Chandigarh (Account No. 6503 5682 434, IFSC Code SBIN0050306) and trial Court shall proceed with the matter only once the receipt qua deposit of cost is produced before

it.

6. In view of the discussions made hereinabove, the present petition stands disposed off, accordingly.

24.01.2024

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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>