

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2485-2019 (O&M)
DECIDED ON: 12.02.2024

AVTAR SINGH

.....APPELLANT

VERSUS

HARINDER PAL AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Khokhar, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

CRM-33975-2019

This is an application under Section 5 of Limitation Act read with Section 482 Cr.P.C., for condonation of delay of 44 days in filing the present appeal.

For the reasons mentioned in the application and after hearing the counsel for the applicant-appellant, the same is allowed.

Delay of 44 days in filing the appeal stands condoned.

CRM-A-2485-2019

1. The present appeal has been preferred against the judgment/order dated 01.07.2019 passed by Sub Divisional Judicial Magistrate, Talwandi Sabo, whereby the complaint under Section 138 of Negotiable Instruments Act, 1881 of the appellant stands dismissed for want of prosecution.
2. Learned counsel for the appellant/complainant submits that though notice was issued to the complainant, but the same could not be served and without adverting to the process of service as enumerated in Cr.P.C., the trial Court went on

to dismiss the complaint itself for want of prosecution, which suffers grave perversity and illegality.

3. It is the assertion on behalf of the appellant-complainant that if the complaint is not restored to its original position, he will suffer irreparable loss, which cannot be compensated, as he has already suffered on account of dishonouring of cheque bearing No.002931 dated 24.04.2015 for a sum of Rs.14,00,000/- drawn on State Bank of Patiala, Branch at Guru Nanak Thermal Plant, Bathinda.

4. Considering the aforesaid facts and circumstances as well as the submissions of learned counsel for the appellant, the order dated 01.07.2019 passed by Sub Divisional Judicial Magistrate, Talwandi Sabo is hereby set aside.

5. The complaint is remanded back to the trial Court for adjudication on merits.

6. The appeal stands disposed off in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

12.02.2024

Meenu

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