

2025:PHHC:100310



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-30884-2025
DECIDED ON: 01.07.2025**

M/S INDIAN ACRYLICS LTD.

.....PETITIONER

VERSUS

M/S RISHAB COTSPIN PVT. LTD. AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Shaurya Mehra, Advocate for
Mr. Shobit Phutela, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 528 BNSS has been invoked seeking quashing of impugned order dated 07.01.2025 (Annexure P-12) passed by learned Judicial Magistrate 1st Class, Chandigarh whereby, a complaint bearing No.NACT/5025/2023 stands dismissed in default.

2. It has been contended on behalf of learned counsel for the petitioner that the non-appearance of the petitioner before the trial Court is neither intentional nor willful but on account of the fact that the petitioner was pursuing his matter before the Ludhiana District Court, no application for personal exemption could be filed by his counsel. He further submits that the petitioner was pursuing the matter very sincerely and cautiously and was

appearing on each and every date as is evident from the Annexures annexed with the petition but the Trial Court passed order dated 07.01.2025 whereby the complaint has been dismissed in default on account of non-appearance of petitioner by the trial Court without appreciating the facts mentioned above.

3. Heard.

4. The disturbing feature of the case is that under our present adversary legal system where the parties generally appear through their advocates, the obligation of the parties is to select his advocate, brief him, pay the fees demanded by him and then trust the learned advocate to do the rest of the things. The party may be a villager or may belong to a rural area and may have no knowledge of the court's procedure. After engaging a lawyer, the party may remain supremely confident that the lawyer will look after his interest. At the time of the hearing of petition, the personal appearance of the party is not only not required but hardly useful. Therefore, the party having done everything in his power to effectively participate in the proceedings can rest assured that he has neither to go to the Court to inquire as to what is happening in the Court with regard to his case nor is he to act as a watchdog of the advocate that the latter appears in the matter when it is listed. It is no part of his job. What is the fault of the party who having done everything in his power and expected of him would suffer because of the default of his advocate. The problem that agitates is whether it is proper that the party should suffer for the inaction, deliberate omission, or misdemeanour of his agent. The answer obviously is in the negative.

5. In view of the foregoing, discussion, it is held that the trial Court has adopted a very casual and pedantic approach while dismissing the

complaint of the petitioner for want of prosecution. The trial Court ignored that rules of procedure are handmade of administration of justice and the same are to be applied to enhance the cause of justice and not to defeat the same. Thus, by restoring the present complaint this Court is of the view that neither of the parties would suffer prejudice rather it would help in facilitation of the case to secure the ends of justice.

6. As a consequence the impugned order dated 07.01.2025 (Annexure P-12) passed by learned Judicial Magistrate 1st Class, Chandigarh is set aside and the complaint bearing No.NACT/5025/2023 is remanded back to the trial Court to restore the same at its original position and adjudicating it as per law.

7. However, the above-said order would be subject to payment of penalty of Rs.10,000/-, which shall be deposited with the State Legal Services Authority, UT. Chandigarh. A receipt which shall be deposited before the trial Court.

8. Petition stands disposed of.

9. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

01.07.2025
Sham/Meenu

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