



CRM-M-37567-2024

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

CRM-M-37567-2024

Date of Decision: 05.02.2025

Shriram Transport Finance Company Ltd.

..... Petitioner

Versus

Vinod Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Radhika Pathania, Advocate for
Mr. Nilesh Bhardwaj, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for setting aside the impugned order dated 09.05.2024 passed by learned Additional Civil Judge (Senior Division) Samalkha, District Panipat, whereby, the complaint bearing No. NACT/313/2020 dated 08.07.2020 titled as Shriram Transport Finance Company Ltd. vs. Vinod Kumar, under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act'), has been wrongly dismissed in default and further prayer has been made for restoration of the complaint to its original number.

2. It has been vehemently contended by learned counsel for the petitioner that the petitioner is the complainant, who filed a complaint under Section 138 of the Act. She submits that the petitioner had engaged a counsel and they were appearing before the trial Court regularly, however, on one date i.e. 09.05.2024, neither the petitioner nor his counsel could appear due to miscommunication and hence, the complaint filed by the petitioner was dismissed for non-prosecution by learned trial Court. She submits that if the complaint is not decided on merits, then the petitioner would suffer an irreparable loss and injuries. She further submits that as the complaint has not been decided on merits, the same be restored to its original number for the

decision on merits.

3. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner before this Court is the complainant of the complaint, which has been dismissed for non-prosecution vide impugned order dated 09.05.2024, due to absence of the petitioner. In case, the complaint is not decided on merits, then the petitioner would suffer an irreparable loss and injury as the case pertains to the issuance of cheque by respondent, which on presentation was dishonoured. It is further evident from the record that the complaint was not decided on merits. In these circumstances, the Court finds that the complaint should be restored to its original number and be decided on merits. The impugned order dated 09.05.2024 is set aside and the trial Court is directed to restore the complaint to its original number and proceed with the same in accordance with law.

4. Present petition stands allowed in above terms.

05.02.2025

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No