



S. No.131

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55147 of 2025
Date of Decision:29.09.2025

Sumer Chand
Vs.

.....Petitioner

Bunty

.....Respondent

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Sankalp Dhanda, Advocate for
Mr. Chander Shekhar Singhal, Advocate
for the petitioner.

Yashvir Singh Rathor, J. (Oral)

1. This is a petition filed under Section 528 of BNSS, 2023 for quashing the order dated 23.07.2025 (Annexure P.4) passed by learned Judicial Magistrate Ist Class, Ambala in application dated 13.06.2024 vide which restoration of the complaint was dismissed with a further prayer for directing the ld. JMIC, Ambala to restore the complaint bearing No.NACT-122 dated 09.01.2024, titled as **Sumer Chand Vs. Bunty** under Section 138 of the Negotiable Instruments Act (for short, 'the NI Act').

2. I have heard learned counsel for the petitioner and perused the material placed on record.

3. A perusal of the record placed on the file shows that the complaint under Section 138 of the NI Act was instituted by the petitioner which was fixed



for hearing on 22.05.2024 when the same was dismissed for want of prosecution and on that day, following orders were passed by the Id. Magistrate:-

“Present: None for complainant.

Case received by way of transfer. It be checked and registered. Today the case was fixed for remaining preliminary evidence on behalf of complainant. Case called several times but none has appeared on behalf of complainant. Let, the file be again put up after lunch time.

Dated: 22.05.2024

Sd/-
JMIC, Ambala,
UID: HR0549

Present: None for complainant.

File taken up after lunch time. Despite repeated calls since morning, none appeared on behalf of complainant. Complainant himself has also not appeared before the court. Waited sufficiently. It is already 04.30 P.M. Further wait is not justified. It appears that the complainant is no longer interested to pursue the matter. Hence, the present complaint stands dismissed for want of prosecution. File be consigned to record room, after due compliance.

Dated: 22.05.2024

Sd/-
JMIC, Ambala,
UID: HR0549”

4. A perusal of the afore-said first order shows that the case was received by way of transfer in the transferee Court on 22.05.2024 and prior to that,



it was pending before some other Court. When the case was called again after lunch, none had appeared and the complaint in hand was dismissed for want of prosecution. However, once the complaint was received by transfer from the other Court, it is possible that complainant may not have been informed of the transfer of the case to the transferee Court, which may have prevented him from appearing before the transferee Court. In such circumstances, transferee Court ought to have issued a Court notice to the complainant or his counsel and inform them about the transfer of the complaint to that Court and should not have straightway resorted to its dismissal on account of non-appearance of the complainant. It is well settled that a party cannot be condemned unheard and after the complaint was transferred to some other Court, the notice should have been issued to the complainant instead of dismissing the complaint.

5. Resultantly, the impugned order is not sustainable and is accordingly, set aside and the complaint is ordered to be restored to its original number. The trial Court shall proceed further in the matter in accordance with law.

(Yashvir Singh Rathor)
Judge

September 29, 2025

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No