

M/S Devas Traders Vs. Prem Prakash

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Court : Madhya Pradesh

Decided On : Jul-30-2012

Appellant : M/S Devas Traders

Respondent : Prem Prakash

Judgement :

Cr.

Rev.

No.82/2012 30.7.2012.

Shri Ashok Chakravarty, Adv.for the petitioner.

Heard.

Perused the record of trial Court.

Complaint case 239/09 filed by petitioner under Section 138 of Negotiable Instrument Act has been dismissed by learned JMFC, Raisen on 19.1.11 for want of prosecution though respondent was called.

Learned counsel for petitioner placed reliance on single bench decisions of this Court in Right Services, Ratlam versus Chhotu Bhaiya Road Lines, Ratlam 2003 (2) MPLJ 52 and Vijay Singh versus Surendra Singh ILR (2010) MP 234.wherein it has been held that complaint under Section 138 of Negotiable Instrument Act

ordinarily should not be dismissed on single non-appearance.

Since the respondent was not served, so Court below ought to have waited for the Advocate who was appearing for the petitioner.

Order dated 19.1.11 is haRs.and strict and is liable to be quashed.

It is hereby quashed.

Complaint Case No.239/09 is restored to its original number.

Trial Court shall re-register the case at the same number and will proceed further after the proceeding dated 13.1.11.

Office is directed to send back the record immediately to the trial Court.

Petitioner is directed to appear before the trial Court on 27.08.12.

Petition is allowed with the aforesaid directions.

(M.A.Siddiqui) Judge.

2 Jk.

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