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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CRL.L.P. 337/2012**

RAM SINGH YADAV Petitioner/Appellant
Through **Mr. Sandeep Thakur, Advocate**

versus

KAMAL GOEL & ORS. Respondents
Through **Mr. Manoj Ohri, APP for State.**

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER

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30.10.2012**CRL.M.A. 12329/2012**

Allowed, subject to just exceptions.

CRL.L.P. 337/2012

Keeping in view the facts and circumstances of the case, present petition is allowed and Registry is directed to number the appeal.

Crl.L.P. 337/2012 stands disposed of accordingly.

CRL. A. NO. 1263 /2012 (To be numbered)

Present appeal has been filed challenging the order dated 28th April, 2012 passed by Metropolitan Magistrate-04 (South), Saket Courts, New Delhi whereby appellant's complaint has been dismissed for non-prosecution.

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Though this Court has been liberal in setting aside orders dismissing complaint on the ground of non-prosecution but upon a perusal of the paper book, this Court is of the view that in the present instance no criminal case is made out.

To put it pithily, appellant's allegation is that because of loss of original lease deed at the instance of the accused he has suffered a loss of Rs. 20 lacs. This Court is of the opinion that even if the appellant's version is accepted as true and correct, then also it is not understood as to how a criminal proceeding would lie. At the highest, appellant's allegation discloses a cause of action for filing a recovery suit. Consequently, present appeal is dismissed on merit and not on default with liberty to appellant to file civil proceedings in accordance with law.

Needless to say, the civil Court shall decide the matter on its merit without being influenced by any observations made by this Court.

With the aforesaid observations and liberty, present appeal stands disposed of.


MANMOHAN, J

OCTOBER 30, 2012

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