

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: January 15, 2015

+ **CRL.M.C. 2596/2013 & Crl. M.A.No. 10020/2013**

FABRIKKA RETAILLS & ANR. Petitioners

Through: Mr. Arvind Chaudhary, Advocate

versus

MONA TRENDS PVT. LTD. Respondent

Through: Mr. Hemant K. Chaudhary,
Advocate

+ **CRL.M.C. 2799/2013 & Crl. M.A.No.10694/2013**

FABRIKKA RETAILLS & ANR. Petitioners

Through: Mr. Arvind Chaudhary, Advocate

versus

MONA TRENDS PVT. LTD. Respondent

Through: Mr. Hemant K. Chaudhary,
Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

In the above captioned two petitions, quashing of complaints under Section 138 of *The Negotiable Instruments Act, 1881* for ₹1,90,000/- (in Crl.M.C.No.2596/2013) and ₹2,53,275/- (in Crl. M.C.No. 2799/2013) is sought on the basis that time barred complaint has been entertained by the

trial court without condoning the delay in filing of the said complaints.

Learned counsel for parties submit that in the above captioned two petitions challenge to the impugned summoning order is on the same grounds and the quashing of complaints in question is also sought on identical grounds, therefore, these petitions be heard together. Accordingly, these petitions have been heard together and are being disposed of by this common judgment.

Vide order of 16th January, 2013, petitioners have been summoned as accused in the above said complaint cases.

Learned counsel for petitioners submits that without passing order on petitioner's application seeking condonation of delay in filing the complaints under Section 138 of the *Negotiable Instruments Act, 1881* summoning order has been passed and now the matter is coming up before the trial court for consideration on application under Section 145 (2) of the aforesaid Act.

Learned counsel for respondent fairly concedes that no order on the applications seeking condonation of delay has been passed by the trial court.

Upon hearing and on perusal of the impugned order and the material on record, this Court finds that without condoning the delay in filing of the complaints in question, trial court has observed in the impugned order that the complaints in question are within the period of limitation.

To say the least, impugned order discloses utter non-application of mind. Consequentially, impugned order of 16th January, 2013 in the above captioned two petitions is quashed with direction to the trial court

to first pass a speaking order on respondent's application seeking condonation of delay in filing the complaints in question.

Both these petitions and applications are disposed of with aforesaid directions.

Dasti.

(SUNIL GAUR)
JUDGE

JANUARY 15, 2015

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