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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.L.P. 586/2014

SADA RAM KADIAN

..... Petitioner

Through: Mr. Rishabh Kumar, Advocate.

versus

THE STATE & ANR

..... Respondents

Through: Mr. Rajat Katyal, APP for State.
Mr. Pramod Singh & Mr. Mehraj
Tyagi, Advocates for respondent
No.2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

10.03.2015

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1. Upon issuance of notice, learned counsel for respondent No.2 has appeared and has made his submissions.
2. Learned counsel have been heard.
3. The petitioner seeks leave to appeal against the order dated 12.05.2014 passed by the learned MM, whereby the complaint was dismissed for non-prosecution on account of non-appearance of the complainant despite repeated calls. On the previous date as well, none had appeared on behalf of the complainant. 
4. For the reasons aforesaid, the leave application is allowed.

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Crl.A. No. 313 /2015 (to be registered and numbered)

5. Let the appeal be registered and numbered.
6. I have heard learned counsel.
7. Since the complaint has been dismissed for non-prosecution, in my view, it would be appropriate that the appellant be granted one opportunity to pursue the complaint. The reason for non-appearance, as stated by the appellant, is that the date in the case had not been correctly noted and the correct date could not be communicated to the appellant.
8. In these circumstances, the present appeal is allowed and the impugned order dated 12.05.2014 is set aside. The complaint is restored to its original number, subject to the condition that the appellant shall pay costs of Rs.10,000/- to the respondent No.2 within two weeks. The appellant shall remain present with his counsel on each date and no further indulgence shall be shown to the appellant on the matter of appearance before the learned Magistrate.
9. The parties shall appear before the learned Magistrate on 06.04.2015.
10. The appeal stands disposed of in the aforesaid terms.


VIPIN SANGHI, J

MARCH 10, 2015
B.S. Rohella