

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

Date of Decision: January 14, 2015

+ CRL.M.C. 4725/2013

JAIDEEP SINGH BHATIA & ANR. Petitioners

Through: Mr. G.S.Chauhan & Ms. Neha
Saxena, Advocates

versus

ORCHID OVERSEAS P. LTD. Respondent

Through: Nemo

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Delay of 12 days in filing of complaint under Section 138 of Negotiable Instruments Act, 1881 stands condoned vide impugned order of 15th April, 2013 by observing as under:-

“Even otherwise, as per the revisionist’s averment that the cause of action arose on 11.5.2012, the complaint could have been filed by 10.6.2012. the revisionist has explained that 8.6.2012 was the last working day before summer vacations; their authorized representative was on leave from 4.6.2012 to 9.6.2012 to visit some religious place to perform family sacraments by 10.6.2012. It is further submitted that their Advocate was sunder bona fide belief that the complaint could not be filed during summer vacations; the courts reopened on 21.6.2012 after vacations; the complaint was filed on the very first day on

reopening of the courts i.e. on 21.6.2012. The Ld. MM was not convinced with the reasons given, observing that the complaint was filed through an advocate, who should have known that filing counter remains open during summer vacations. Possibility of a bon a fide mistake on the part of the complainant/revisionist/his Advocate in this regard, cannot be ruled out.”

At the hearing, learned counsel for petitioner had submitted that trial court in its order of 18th October, 2012 had rightly not condoned the delay as during summer vacations, filing was permitted so that such complaints do not become time barred and there were Duty Magistrates working in summer vacations to entertain such complaints. In this regard attention of this Court was drawn to Annexure P-5. Thus, it is submitted that delay is not sufficiently explained and impugned order deserves to be set aside and trial court's order ought to be restored.

Upon hearing and on perusal of impugned order and material on record, I find that the authorized representative of the complainant was on leave from 4th June, 2012 to 9th June 2012 and on the first very day after the summer vacations, the complaint has been filed, which sufficiently explains the delay.

In the considered opinion of this court, there is no illegality or infirmity in the impugned order. This petition is without any substance and is accordingly dismissed.

(SUNIL GAUR)
JUDGE

JANUARY 14, 2015

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