

\$~7

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

Judgment delivered on: 21st August, 2015

+ **CRL.M.C. 2090/2015**

MUKESH SHARMA Petitioner

Represented by: Mr. Tarun Rana and
Mr. Puneet Dhawan, Advs.

Versus

SATBIR SINGH Respondent

Represented by: Mr. Sachin Kr. Lohia, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the present petition, petitioner seeks direction thereby quashing Criminal Complaint titled as Satbir Singh vs. Mukesh Sharma filed under section 138/142 of the Negotiable Instruments Act being CC No. 2379/1/2014.

2. Further seeks direction to quash the summoning order dated 19.01.2015 passed by the trial court whereby the petitioner has been summoned to face trial.

3. Ld. Counsel appearing on behalf of the petitioner submits that the aforesaid summoning order has been passed on a complaint made after the statutory period of limitation and there was no application for condonation of delay. The learned trial court overlooked this fact and mechanically summoned the petitioner vide order dated 19.01.2015.

4. Learned counsel appearing on behalf of the respondent/complainant submits that the respondent along with complaint filed the application for condonation of delay which is permissible to be condoned as per law. However, the learned trial court failed to pass order on the said application and issued summon vide order dated 19.01.2015.

5. In support of his submissions, learned counsel appearing on behalf of the respondent relies upon the judgment of the Supreme Court in ***Pawan Kumar Ralli vs. Maninder Singh Narula AIR 2014 (SC) 3512*** in this the Apex Court observed as under:-

“24. At the same time, we want to make it very clear that by this observation we are not laying down a legal proposition that without even filing an application seeking condonation of delay at an initial stage, complainant can be given opportunity at any stage of the proceeding. As already discussed by us in the foregoing paragraphs, we have come to the irresistible conclusion, to afford an opportunity for the complainant to move an application seeking condonation of delay, under the peculiar facts and circumstances of the case.

25. For all the aforesaid reasons, in order to meet the ends of justice, we exercise our discretion Under Article [142](#) of the Constitution and set aside the impugned judgment of the High Court quashing the criminal proceedings and restore the criminal

proceedings before the Trial Court. The Appellant is permitted to file an application for condonation of delay before the Trial Court and if such an application is filed, the Trial Court shall be at liberty to consider the same on its own merits, without being impressed upon by any of the observations by this Court, and pass appropriate orders.”

6. In view of the above, I hereby direct the trial court to consider the application of the respondent/complainant for condonation of delay after hearing the counsel for both the parties and pass appropriate order thereon.

7. It is made clear that if the trial court come to the conclusion that the delay is unjustified then the said court is at liberty to pass order and consequently the summoning order will go; and if the trial court comes to the conclusion that the delay is justified and allow the application, then the court will proceed further as per law.

8. In view of the above, the petition stands disposed of.

Crl. M.A. 7437/2015 (stay)

Dismissed as infructuous.

SURESH KAIT, J

AUGUST 21, 2015

RS