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

+ **W.P.(CRL) 484/2014**

MURARI LAL TYAGI

..... Petitioner

Through: Mr. Pramod K Singh and Ms. Susmit,
Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ORS

..... Respondent

Through: Mr. R.S. Kundu, ASC for Mr. Rajesh
Mahajan, ASC

**CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI**

ORDER
20.02.2017

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Crl. M.A. Nos.3062-64/2017

Crl. M.A. No. 3064/2017 has been preferred to seek condonation of 197 days delay in filing the restoration application. Crl. M.A. No. 3063/2017 has been preferred by the petitioner to seek condonation of 54 days delay in re-filing the application for restoration i.e. Crl. M.A. No. 3062/2017.

The petitioner has preferred the present writ petition primarily to seek a direction to the State to register a FIR in respect of an offence allegedly committed u/s 452/ 380/427/468/471/420/506/120B/ 34 IPC in respect whereof the petitioner got recorded DD No.42B dated 05.11.2012.

The order sheet shows that on 09.12.2015 when this court considered the matter, the court required the petitioner to satisfy the court with regard to maintainability of the petition for the reliefs sought therein in view of the judgment of the Supreme Court in *Sakiri Vasu v. State of U.P.*, (2008) 2 SCC 409 on account of the petitioner not having approached the concerned court u/s 156(3) Cr PC.

The case was adjourned to 22.02.2016. On the said date, none appeared for the petitioner despite a pass over and, consequently, the court dismissed the petition in default after taking into account the previous order dated 19.12.2015.

A perusal of the application to seek condonation of 197 days delay shows that there is absolutely no explanation offered for the delay in moving the application except to say that the petitioner is 84 years old and bedridden. The application for restoration claims that counsel for the petitioner was held up in another court when the case was called out for the first time. According to the petitioner, the case was dismissed in default in the first call itself. This position cannot be accepted since it is patently contrary to the record. The petitioner claims that he was informed that the date in the case was 28.07.2016. However, on 28.07.2016, it came to the knowledge of the petitioner's counsel that the case had been dismissed in default on 22.02.2016. Even thereafter, the petitioner has waited for well over six months to prefer the present application.

The averments made in the application seeking condonation of delay in filing and re-filing as well as in the application seeking restoration are not substantiated and cannot be accepted. In any event, the petitioner is not prejudiced since the petitioner can seek his remedy by approaching the

concerned court under Section 156(3) Cr PC.

For the aforesaid reasons, I am not inclined to allow these applications. Dismissed.

VIPIN SANGHI, J

FEBRUARY 20, 2017
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