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

+ **CRL.M.C. 2215/2016**

SUMIT ARORA

..... Petitioner

Represented by: **Mr. Suhail Malik, Advocate.**

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Represented by: **Mr. Ashok K. Garg, APP for
the State with SI Bishambar
Dayal, PS Connaught Place.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

21.10.2016

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1. The petitioner filed a complaint before the learned Metropolitan Magistrate being CC No. 384/1/14 titled as 'Sumit Arora vs. State of NCT of Delhi & Ors' along with an application under Section 156 (3) Cr.P.C. seeking direction to the SHO, PS Connaught Place, New Delhi to investigate the complaint dated 20th November, 2012. The said application was dismissed by the learned Metropolitan Magistrate vide order dated 15th July, 2015 which was challenged in a revision petition.

2. The learned Additional Sessions Judge noting that there was no sufficient cause to condone the delay, dismissed the application for condonation of delay and the revision petition being barred by limitation. Hence the present petition.

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3. The allegations of the petitioner in the complaint are that the accused persons approached him for investing money to start chain of restaurants by the name of 'Soya Express' and 'Handi Chadiyan Di'. The petitioner was promised that he would be paid profit out of the commission, for which two agreements dated 31st August, 2011 and 29th December, 2011 were executed. Despite having taken ₹35 lakhs from the petitioner, the two restaurants were not started and the accused even refused to refund the money.

4. Considering the facts required to prove the offence were within the knowledge of the petitioner and no investigation thereon was required to be done to collect the evidence, the learned Trial Court dismissed the application under Section 156 (3) Cr.P.C. granting liberty to the petitioner to lead pre-summoning evidence.

5. Agreeing with the finding of the learned Additional Sessions Judge that sufficient cause to condone the delay was not explained as the order of the learned Metropolitan Magistrate dated 15th July, 2015 had been uploaded on the website of Patiala House Court along with the other orders and after the said date presence of the petitioner's counsel was also recorded in the order sheet, thus he could not have shown ignorance of the order dated 15th July, 2015, this Court notes that even on merits no fault can be found with the order of the learned Metropolitan Magistrate noting that the evidence was in possession of the petitioner and the complaint could be proceeded as per the complaint case procedure and no direction for registration of the FIR was required.

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6. Consequently, finding no merit in the present petition, the same is dismissed. However, in case the petitioner so wishes he can lead the pre-summoning evidence before the learned Trial Court on the date fixed by the learned Metropolitan Magistrate.


MUKTA GUPTA, J.

OCTOBER 21, 2016
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