

2
\$~14.

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

+ CRL.L.P. 630/2016

DAMODAR GUPTA

..... Petitioner

Through: Mr. Dharmendra Sharma &
Mr. Prashant Kumar Sharma,
Advocates.

versus

DHARMENDRA KUMAR

..... Respondent

Through: Mr. M.B. Harikant & Mr. Basant
Kumar Gautam, Advocates for and
along with respondent in person.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

17.02.2017

%

Learned counsel for the respondent puts in appearance. He does not oppose grant of leave.

Accordingly, leave granted.

Crl.Appeal No. 195 /2017 (to be registered and numbered)

Let the appeal be registered and numbered.

The appellant has preferred the present appeal to impugn the order dated 29.08.2016, whereby the appellant's complaint under Section 138 of the NI Act has been dismissed in default by resort to Section 256 Cr.P.C. on

account of non-appearance of the complainant on a few dates, including on 29.08.2016.

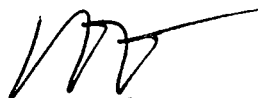
Learned counsel for the appellant submits that the non-appearance was on behalf of his personal illness. The appellant himself was also not well and, therefore, he could not appear. He submits that the appellant is ready & willing to compensate the respondent for the inconvenience suffered by the respondent due to non-appearance of the appellant and his counsel before the learned Magistrate.

Cases should be heard and decided on merits as far as possible. Learned counsel for the respondent has also fairly agreed to the impugned order being set aside, subject to appropriate terms.

Accordingly, the impugned order is set aside and the complaint is restored to its original number, subject to the appellant paying costs of Rs.15,000/- to the respondent. The costs be paid by the appellant to the respondent on the next date before the Trial Court.

The parties shall appear before the Trial Court on 15.03.2017. The Trial Court shall proceed from the stage at which the case was dismissed.

The appeal stands disposed of in the aforesaid terms.



VIPIN SANGHI, J

FEBRUARY 17, 2017

B.S. Rohella