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

+ CRL.M.C. 1964/2016

GULSHAN KUMAR SACHDEVA

..... Petitioner

Represented by: Mr. Yogesh Choudhary, Adv.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR

..... Respondent

Represented by: Ms. Meenakshi Chauhan, APP.
Mr. M.M. Singh, Ms. Pooja
Kumari, Advs. for R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
21.02.2017

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Learned counsel for the respondent enters appearance. The petitioner challenges the order dated 3rd March, 2016 whereby the complaint of the petitioner being complaint case No. 5092/15 titled as '*Gulshan Kumar Sachdeva Vs. M/s. P.V. Enterprises*' was dismissed for want of prosecution for the reason that none appeared for the complainant on that date on 3rd March, 2016 despite repeated calls.

The learned Trial Court vide the impugned order noted that even on the last date none appeared for the petitioner/complainant. The explanation rendered by learned counsel for the petitioner is that on 10th December, 2015 when the matter came up and the petitioner appeared with the counsel before

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the Trial Court, the matter was fixed for 31st March, 2016, however when the counsel and the petitioner appeared on 31st March, 2016 it was revealed that on 3rd March, 2016 the complaint was dismissed.

Observation of the learned Trial Court in the impugned order dated 3rd March, 2016 that none appeared for the complainant even on the last date is incorrect for the reason on 10th December, 2015 the order sheet of the learned Trial Court notes the presence of petitioner/ complainant with counsel and the accused in person. Consequently, the impugned order dismissing the complaint for non-prosecution is set aside subject to a cost of ₹5,000/- to be paid to the respondent on the next date of hearing before the Trial Court. The complaint case No.5092/15 is restored to its original position and the same be listed before the learned Trial Court on 20th March, 2017 when the parties will appear before the Court.

Petition is disposed of.

MUKTA GUPTA, J.

FEBRUARY 21, 2017
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