

\$~ 26 & 29

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 5081/2015 & CRL.M.A. 18311/15, 18314/15, 8374/17

NIZAMUDDIN

..... Petitioner

Through: None.

versus

RAMZANI & ANR

..... Respondents

Through: Mr. Raj Kumar Sharma, Adv. for R-1.

+ CRL.M.C. 965/2016 & CRL.M.A. 18274/17, 4089/2016

NIZAMUDDIN

..... Petitioner

Through: None.

versus

RAMZANI & ANR

..... Respondents

Through: Mr. Raj Kumar Sharma, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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18.07.2018

There is no appearance on behalf of the petitioner. It is 4.45 P.M.

The petition and the pending applications are dismissed in default.

JULY 18, 2018

srb

R.K. GAUBA, J

*Connected
matter
CRL.M.C. 5081/15
--- 10/10/18
(for Revision)*

- Petition dismissed in default 18/7/18
- Fresh CRLMA 32186/18 for recalling of order dt 18/7/18
- CRLMA 32187/18 for delay in filing applications (7 days)
- CRLMA 32188/18 for exemption

\$~18

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 965/2016

NIZAMUDDIN

..... Petitioner

Through: Ms. Dezy Gaur, Advocate

versus

RAMZANI & ANR

..... Respondents

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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17.09.2018

Crl.M.A.32188/2018 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

Crl.M.A.32186/2018 (for recalling of order dated 18.07.2018),
Crl.M.A.32187/2018 (for delay)

Issue notice of the applications to the respondents/non-applicants, by all permissible modes, on steps to be taken within a week, returnable on 10th October, 2018.



R.K.GAUBA, J.

SEPTEMBER 17, 2018

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- Resp no 1 & 2 - served

- Crl MA 32186/18 - for recalling of
order dt 18/7/18

- Item no 8 & 9
all connected matters

- Crl MA 32187/18 - for delay in filing
application (7 days)

\$~ 8 & 9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 5081/2015
NIZAMUDDIN

..... Petitioner

Through: Mr. R.K. Sharma with Mr. Mohit
Malik, Advocates.

versus

RAMZANI & ANR

..... Respondents

Through: Ms. Saira Parveen for Mr. Sonal
Sinha, Adv. for R-1.
Mr. L.K. Singh, Adv. for R-2.

+ CRL.M.C. 965/2016
NIZAMUDDIN

..... Petitioner

Through: Mr. R.K. Sharma with Mr. Mohit
Malik, Advocates.

versus

RAMZANI & ANR

..... Respondents

Through: Ms. Saira Parveen, Adv. for R-1.
Mr. L.K. Singh, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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10.10.2018

CRL.M.A. Nos. 31685/2018 & 31686/2018 in CRL.M.C. 5081/2015
CRL.M.A. Nos. 32186/2018 & 32187/2018 in CRL.M.C. 965/2016

The criminal misc. nos. 5081/2015 and 965/2016 had been brought by the applicant to seek quashing of two different complaint cases – CC no.4419/01/100 and CC no.34/1 – which had been instituted by Nadeem Ahmed and Naseem, they being second respondent respectively in the two matters, the prayer essentially being that on account of a settlement between

CRL.M.C. 5081/2015 & 965/2016

the applicant (the petitioner) on one hand and Ramzani (first respondent in each matter) on the other, the continuance of the criminal proceedings in the said criminal complaints of the respective second respondents were in the nature of the abuse of process of law. In the first captioned petition, by order dated 15.12.2015 stay against the proceedings before the trial court in the respective complaint case was granted. Both the said petitions came to be dismissed in default by common order passed on 18.07.2018. Thereafter, the applications for recall of the said order dated 18.07.2018 have been moved along with applications for condonation of delay, they being Crl.M.A. Nos. 31685/2018, 31686/2018, 32186/2018 and 32187/2018.

On the said applications, notices were issued to the non-applicants by order dated 10.09.2018 and 17.09.2018 respectively.

The counsel for the second respondents in these matters, i.e. the complainant of the two complaint cases submitted that misleading statement had been made before the Metropolitan Magistrate in respect of the first complaint case, he placing on record copy of the proceedings recorded by the Metropolitan Magistrate on 14.09.2018. It is noted that Mr. A.A. Siddiqui, Advocate representing the applicant (accused in the said case) had informed the Metropolitan Magistrate that on his application, the petition had been restored by this Court and there was a stay operating in the case. This submission for and on behalf of the applicant in the context of the first case was factually incorrect and undoubtedly misleading.

When the above-mentioned facts were brought to the light, the counsel representing the applicant in both these matters sought pass over pleading ignorance. The matters have been taken up again after some time.

The counsel for the applicant now regrets the wrong submissions that have been made before the Metropolitan Magistrate in the first said complaint case on 14.09.2018 tendering unconditional apology. He also submitted that the applicant now reconciles to the fact that on the basis of a settlement with the first respondent Ramzani, quashing of the complaint cases filed by the second respondent in each case cannot be asked for inasmuch as the agreement with Ramzani cannot bind the third parties. Thus, the counsel for the applicant submits, on instructions, that he may be permitted to withdraw the applications for recall of the order of dismissal of the main petitions, the petitioner reserving the right to raise all defences in the proceedings pending before the Metropolitan Magistrate.

It having been made clear that there is no stay against the continuance of the proceedings in the aforementioned criminal complaint cases, the applications at hand are dismissed as withdrawn.



R.K.GAUBA, J.

OCTOBER 10, 2018

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