

\$~70

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

+ **CRL.M.C. 218/2018**

**RADHEY SHYAM GUPTA**

..... Petitioner

Through Mr. G.S. Sharma with Mr. V.K.  
Sharma and Mr. R.A. Sharma,  
Advocates.

versus

**THE STATE (GOVT OF NCT OF DELHI) & ORS ..... Respondent**

Through Mr. Akshai Malik, APP  
Insp. Sanjeev Verma, PS Timarpur.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**ORDER**

% **16.01.2018**

**CrI.M.A. 852/2018 (for condonation of delay in re-filing)**

For the reasons stated in the application, the application is allowed. The delay in re-filing the petition is condoned.

The application stands disposed of.

**CRL.M.C. 218/2018**

1. The petitioner is aggrieved by order dated 14.11.2017, whereby, the petition of the petitioner has been dismissed in default and for non-prosecution. It is contended by the learned counsel for the petitioner that the counsel was appearing in a matter in the High Court and the son of the petitioner was present before the Court on the first call, who informed the Court that the counsel was on his way. He submits that he reached the Court at about 2:10 pm, by which time the

petition was dismissed in default.

2. Learned APP appearing for the State submits that the proceeding sheet of the case discloses that the petitioner has not been following up the case diligently and for seven years, the matter has been pending for argument at the pre-summoning stage.

3. Though the ordersheet reveals that the petitioner has been lack in prosecuting his case, the explanation rendered for the date when the impugned order was passed, to my mind, is sufficient explanation for non-appearance on the said date.

4. Keeping in view the facts and circumstances of the case, in my view, it would be in the interest of justice that one last opportunity be granted to the petitioner to make submissions before the trial court.

5. Accordingly, the petition is allowed, the complaint is restored to its original number, subject to payment of cost of Rs.5,000/- with “*Delhi Child Welfare Fund*”, Department of Women and Child Development, 1A, Canning Lane, Kasturba Gandhi Marg, New Delhi, within a period of two weeks from today. Receipt of deposit of the costs, imposed by this Order, shall be produced before the Court on 01.02.2018. In case, the petitioner fails to produce the receipt of payment of cost, the case shall be dismissed for non-prosecution.

6. List the petition before the concerned Court on 01.02.2018 for fixing a date for hearing of the matter. It is clarified that the Trial Court shall only give one last opportunity to the petitioner to make

submission and, in case, the petitioner seeks an adjournment or fails to advance arguments, the opportunity to address arguments would automatically lapse and the petition shall be dismissed for non-prosecution.

7. The petition is, accordingly, disposed of in the above terms.
8. Order *Dasti* under the signatures of the Court Master.

**SANJEEV SACHDEVA, J**

**JANUARY 16, 2018**  
**st**