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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 727/2017**
M/S EXOTIKA INFRATECH PVT LTD Petitioner
Through Mr Milan Kuchhal, Advocate.

versus

NET 4 INDIA LTD & ORS Respondent
Through Mr Salim A. Inamdar, Mr Ravi Sehgal,
Mr Adeem Ahmed, Advocates for R8.
Mr Gauhar Mirza, Mr Nishant Doshi, Advocates
for R6.
Mr Prashant Mehta, Advocate for R1, R8 & R9.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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CRL.M.A. 20821/2017
29.08.2019

1. This is an application filed on behalf of the appellant, *inter alia*, praying that the delay of 455 days in filing the captioned leave to appeal be condoned.
2. The appellant has filed the above captioned application seeking leave to appeal against an order dated 13.01.2016, whereby the petitioner's appeal under Section 138 of the Negotiable Instruments Act, 1881 was rejected. A perusal of the said order indicates that none had appeared on behalf of the complainant since 13.10.2015 and therefore, the Court had concluded that the appellant (complainant) was not interested in pursuing the said complaint.
3. According to the complainant, his counsel did not appear on the said date, that is 13.01.2016, before the Trial Court as he had incorrectly noted

18.01.2016 as the scheduled date of hearing. The appellant claims that thereafter, the appellant inspected the file on 21.01.2016 and applied for a certified copy of the order on 13.01.2016. He obtained the same on 28.01.2016.

4. The appellant took no immediate steps for challenging the said order at the material time. The appellant filed a revision petition after more than two months thereafter, in April, 2016. The said petition was dismissed by an order dated 05.11.2016. The appellant claims that he was advised to file a leave to appeal before this Court under Section 378 of the Code of Criminal Procedure, 1973. The only explanation given by the appellant for the delay in filing the leave to appeal is as under:-

“When the previous failed to file the Special Leave to appeal against the dismissal of complaint, the appellant engaged the present Counsel who got the certified and filed the present appeal before the Hon’ble Court which resulted into delay of 455 days in preferring the present appeal.”

5. Clearly, the above explanation cannot be accepted. The present appeal was filed on 08.12.2017 and after the removal of defects, the same was registered on 15.12.2017. There is no credible explanation provided for the inordinate delay of more than thirteen months from the date of rejection of the revision petition.

6. In view of the above, the present application is dismissed. Consequently, the leave to appeal filed by the petitioner is also dismissed.

VIBHU BAKHRU, J

AUGUST 29, 2019/pkv