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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 98/2020 & CrI.M(B) 191/2020
PANKAJ LOHIYA Petitioner

Through: Mr. Raj Kamal & Mr.Aseem
Atwal, Advocates

Versus

STATE OF NCT OF DELHI Respondent

Through: Mr.Kamal Kant Ghai, Additional
Public Prosecutor for State

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

% **31.01.2020**

Vide this petition, petitioner is seeking setting aside of order dated 20th January, 2020 passed by the learned court of Sessions vide which his appeal against the order dated 31st January, 2019 passed by the learned Metropolitan Magistrate, has been dismissed in default.

Notice.

Mr.Kamal Kant Ghai, learned Additional Public Prosecutor for State, accepts notice.

Learned counsel for petitioner submits that vide impugned order of 20th January, 2020, petitioner's appeal has been dismissed while directing the trial court to secure petitioner's presence and for enforcing order on sentence without giving an opportunity of hearing to the petitioner. Learned counsel for petitioner states at Bar that non-bailable warrants have been issued against petitioner two days ago and prays for interim protection.

Heard.

I have perused the impugned order of 20th January, 2020 and its perusal reveals that appeal has been dismissed on the ground that appellant is not coming forward to address the arguments and the learned Additional Sessions Judge sees no ground to interfere in the impugned order on sentence. However, in the opinion of this Court, the learned Appellate Court ought to have given reasons for dismissing the appeal, even if appellant or his counsel was not present, it ought not to have dismissed the appeal by merely stating that since appellant is not coming and he sees no grounds to interfere. In the absence of the reasons, the impugned order cannot be sustained in the eyes of law. This Court finds that interest of justice would be met if petitioner is granted an opportunity of hearing before the learned Sessions Court.

In view of aforesaid, the impugned order dated 20th January, 2020 is set aside and the matter is remanded back to the Sessions Court to hear and dispose of the appeal on merits. The parties are directed to appear before the learned Sessions Court on 20th February, 2020. Till then, no coercive steps be taken against the petitioner.

The learned District and Sessions Judge will dispose of the appeal after hearing the parties. In case the appellant does not appear for any reason, the appeal be disposed of by giving reasons.

The petition and application stand disposed of accordingly.

Dasti.

BRIJESH SETHI, J

JANUARY 31, 2020

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