

\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL. L. P. 223/2020 & CRL.M.A. 8396/2020**

RAVI KUMAR

..... Petitioner

Through Mr Prateek Tanwar, Advocate.

versus

STATE

..... Respondent

Through Mr Amit Gupta, APP for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

31.08.2020

[Hearing held through video conferencing]

1. The petitioner has filed the present petition, *inter alia*, seeking leave to impugn an order dated 17.05.2019 passed by the learned Metropolitan Magistrate in *Complaint Case No. 529045/2016* captioned *Ravi Kumar v. Keshav*. The said complaint had been dismissed on the ground of non-prosecution by the impugned order dated 17.05.2019.
2. The learned counsel appearing for the appellant submits that the said order is erroneous as it has been passed on the assumption that the complainant (appellant herein) was not interested in pursuing his complaint. He submits that this assumption is incorrect. The appellant had preferred the said remedy and therefore, there was no reason for the appellant not to pursue its complaint.

3. He submits that the appellant had not appeared before the concerned Court as his counsel had communicated an incorrect date of hearing to him. He submits that the complainant cannot suffer on account of the lapse of his counsel.

4. It is seen from the order sheet of the Trial Court that have been annexed with the present petition that the complainant (appellant) had appeared along with his counsel on 21.11.2017. On that date, the accused had expressed his desire to cross-examine the complainant on certain specific points and the same was not objected to. The matter was directed to be listed on 17.04.2018 for cross-examination of the complainant (the appellant herein) and further proceedings. However, on 17.04.2018, neither the complainant (appellant) nor his counsel appeared before the Learned MM. The contention that wrong date had been communicated to the complainant by his counsel, is unpersuasive because the complainant himself was present in Court on 21.11.2017 when the matter was adjourned to 17.04.2018.

5. The learned M.M. did not dismiss the complaint on 17.04.2018, but in the interest of justice, adjourned the matter to 16.11.2018 for appearance of the complainant (appellant herein) and further proceedings. Admittedly, the appellant did not appear on that date as well and the matter was adjourned to 17.05.2019. On that date, the matter was called in the morning but none appeared for the complainant (appellant) and the matter was deferred for awaiting the appearance of the complainant. It was again called at around 12.00 noon. Even at that stage, the complainant (appellant) did not appear. The matter was again deferred and once again called out at 2.00 p.m. but even at that stage neither the complainant nor his counsel appeared before

the Court. In the circumstances, the Learned MM dismissed the complaint.

6. The contention that the complainant was unaware of the three dates of hearings is unpersuasive. It is seen that the appellant had appeared in the court on 21.11.2017 and had taken no steps to pursue his complaint thereafter. The present petition has been filed in March 2020 that is after a delay of over seven months; that is, more than ten months after the appellants complaint was dismissed.

7. In view of the above, this Court finds no reason to interfere with the impugned order. The petition is, accordingly, dismissed.

8. The pending application is also dismissed.

VIBHU BAKHRU, J

AUGUST 31, 2020
pkv