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

Date of decision: 09.12.2022

+ **CRL.L.P. 650/2018**

YUVRAJ AGARWAL

..... Petitioner

Through: Mr Akshay Srivastava and Mr Piyush
Singh, Advs.

versus

**M/S. INDRAKSH MEDIA & MANAGEMENT
SERVICES PVT. LTD. & ORS.**

..... Respondents

Through: Mr Atul Verma, Mr Shubham
Srivastava and Ms Mamta Verma,
Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

CRL.M.A. 34042/2018

This is an application seeking condonation of 32 days delay in filing the petition.

In view of the submissions made by learned counsel and for the reasons stated in the application, the delay of 32 days in filing the petition is condoned.

The application is disposed of.

CRL.L.P. 650/2018

1. This is a petition seeking leave to appeal against the impugned order dated 30.06.2018 passed by learned MM-03, Patiala House Courts, New Delhi in Complaint Case No. 25831/2016 whereby the complaint has been

dismissed for non-prosecution.

2. It is stated by Mr Srivastava, learned counsel for the petitioner that it is a case where the petitioner did not follow up with his lawyer on account of his professions commitments. The learned counsel engaged before the trial Court neither appeared nor informed the petitioner, therefore, the complaint was dismissed for non-prosecution.

3. Mr Atul Verma, learned counsel appears for respondent No.2 who is the authorized signatory of respondent No.1.

4. I am of the prima facie view that the petitioner should not suffer on account of negligence of his counsel. Once the petitioner has engaged a counsel, the counsel was required to attend hearings.

5. The complaint was dismissed in default and not on merits, hence, the CRL.L.P. is allowed and Special Leave to Appeal is granted and taken up for hearing today. The appeal is directed to be numbered.

CRL.A. /2022(to be numbered)

6. In the present appeal, it is stated that the appellant did not follow-up with his lawyer on account of his professions commitments and hence, the case was dismissed in default.

7. I am of the view that the appellant has been negligent. He was required to follow-up with his counsel. However, in case the impugned order is not set aside, the appellant would suffer on account of an oversight by him and his counsel. He would be deprived of an adjudication of his case on merits.

8. For the aforesaid reasons, the appeal is allowed and the order dated 30.06.2018 passed by learned MM-03, Patiala House Courts, New Delhi in

Complaint Case No. 25831/2016 is set aside and the complaint filed by the appellant is restored to its original number and position; subject to payment of cost of Rs. 11,000/- by the appellant to Mr Atul Verma, learned counsel appearing for respondent No.2-Mr. Dharamvir Singh. The cost shall be paid on or before the next date of hearing to be fixed before the learned trial Court.

9. The appellant shall appear before learned MM-03, Patiala House Courts, New Delhi on 04.01.2023. The proof of deposit of cost shall be filed before the learned MM.

10. The appeal is allowed and is disposed of.

DECEMBER 9, 2022

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JASMEET SINGH, J

[Click here to check corrigendum, if any](#)

नित्यमेव जयते