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

Date of decision: 10.01.2023

+ **CRL.L.P. 94/2022**

UNITED FACILITIES THROUGH ITS PARTNER Petitioner
Through: Mr. SK Sharma, Mr. Mayank Bansal,
Advs.
versus
SH. AMIT RANJAN Respondent
Through: Mr. Pankaj Jaiswal, Ms. Rakhi Gupta,
Advs.

**CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH**

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

1. This is an application filed seeking leave to appeal on behalf of the appellant against the order of acquittal dated 14.01.2020 passed by the learned MM-04, Tis Hazari Courts, Delhi in Complaint Case No. 3558/2016 titled as 'United Facilities vs. Amit Ranjan'.
2. It is stated by Mr. Bansal, learned counsel for the appellant that the complaint of the applicant was dismissed on account of non-prosecution. He states that according to the appellant, the parties had settled the dispute and as a result of which the applicant was not to prosecute the complaint under section 138 of the NI Act. Hence, the complaint was dismissed in default. The said position is disputed by Mr. Jaiswal, learned counsel for the respondent.
3. The complaint of the appellant under Section 138 of the NI Act has been dismissed on account of non-prosecution. The fact whether the matter has been settled or not and whether the respondent has not

complied with the terms of the alleged settlement or not are only questions which can be decided after appreciation of evidence.

4. In this view of the matter, I am inclined to allow the application seeking leave to appeal. The application is accordingly allowed and the appellant is granted leave to appeal.
5. The appeal be numbered.
6. Since the issue involved in the present case is very limited, the appeal has also been taken up for hearing today.
7. It is stated in the appeal that the parties had settled the disputes and hence, the appellant did not prosecute his complaint under Section 138 of the NI Act. As a result, the complaint was dismissed on account of non-prosecution. The said position is disputed by Mr. Jaiswal, learned counsel for the respondent, who states that there is no settlement on record and this is only a figment of imagination of the applicant.
8. Be that as it may, in the present case, the complaint has been dismissed on account of non-prosecution. The respondent did not enter the witness box.
9. The factum whether there was a settlement, what was the obligations under the settlement are all issues which can only be decided after evidence of the parties.
10. In this view of the matter, I am inclined to allow the appeal and the order dated 14.01.2020 dismissing the complaint under Section 138 of the NI Act is set aside. The complaint is restored to its original position. The parties shall appear before the learned MM on 14.02.2023.
11. In the present case, the respondent had appeared on 14.01.2020 and has

also appeared before this Court on every date of hearing. The respondent has expended considerable legal expenses as well as effort, time and energy in defending the proceedings on account of act of omission on the part of the appellant. The respondent must be compensated by costs in this view of the matter.

12. It is, therefore, directed that the appeal be restored subject to the appellant paying Rs. 60,000/- as costs. The costs of Rs. 30,000/- shall be paid to the respondent and Rs. 30,000/- shall be paid to Mr. Pankaj Jaiswal, learned counsel for the respondent.
13. The costs be paid before 14.02.2023 i.e. the date of appearance before the learned MM.
14. With these directions, the appeal is allowed and disposed of.

JANUARY 10, 2023 / (MS)

JASMEET SINGH, J

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