



\$~1

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

+ CRL.M.C. 869/2024

M/S LEMON TREE HOTELS LTD. Petitioner
Through: Mr. Ajit Kumar
Upadhyay, Advocate

versus

STATE OF NCT OF DELHI & ORS. Respondent
Through: Mr. S.P. Singh,
Mr. Harmeet Singh,
Ms. Jasveen Kaur &
Ms. Swati Gupta,
Advocates for R2 & R3

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
29.02.2024

%

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973, ('CrPC') seeking quashing of the order dated 24.08.2023, passed by the learned Principal District & Sessions Judge ('PDSJ'), Patiala House Court, New Delhi in Cr.Rev. No. 114/2023; and order dated 20.10.2023, passed by the learned PDSJ in Misc. No. 113/2023 (hereafter '**the impugned orders**').

2. The complaint filed by the petitioner under Section 200 of the CrPC being Ct. case No. 14265/2018 under Sections 406/409/420 of the Indian Penal Code, 1860 was dismissed for non-prosecution and non-appearance of the petitioner by an order dated 02.12.2022, passed by the learned Additional Chief Metropolitan Magistrate- 01 (ACMM), Patiala House Courts, New Delhi. The petitioner preferred a revision petition being



Criminal Revision No.114/2023, challenging the order dated 02.12.2022. The revision petition was also dismissed since none appeared for the petitioner on 24.08.2023. The application seeking recall of the order dated 24.08.2023, was also dismissed by order dated 28.10.2023, passed by the learned PDSJ.

3. The petitioner is essentially seeking restoration of its complaint before the Court of the learned ACMM.

4. The learned counsel for the petitioner submits that the petitioner had been diligently following the complaint before the learned ACMM. However, pursuant to *en bloc* dates being given in the matters during the pandemic, the petitioner lost track of the proceedings. He submits that the wrong date was noted in the diary of the learned counsel who was representing the petitioner.

5. He further submits that the AR of the petitioner had appeared through video conferencing before the Court of learned PDSJ on 24.08.2023 and gave the presence in the chat box, however, the same was not reflected in the order sheet.

6. The learned counsel for the petitioner, on instructions, undertakes that no unwarranted adjournments would be taken henceforth before the learned Trial Court.

7. The learned counsel for Respondent Nos. 2 and 3 submits that the conduct of the petitioner does not entitle it of any relief. He submits that the petitioner, since the beginning, was not serious in conducting the proceedings and had not appeared before the Court without any reason whatsoever. He submits that, not only the complaint filed by the petitioner was dismissed for want of prosecution but the revision petition challenging the dismissal of the complaint was also dismissed for non-prosecution.

8. From the perusal of the order-sheet, it is apparent that the



petitioner had not been diligent in pursuing the proceedings before the learned Trial Court. I therefore find no infirmity in the impugned orders.

9. However, I am of the opinion that equities would be balanced in case Respondent Nos. 2 and 3 are compensated and the cost is imposed on the petitioner for delaying the proceedings before the learned Trial Court.

10. In view of the above, the impugned orders and the order dated 02.12.2022 passed by learned ACMM are set aside and the complaint filed by the petitioner bearing Ct. Case no. 14265/2018 is restored to its original position as obtaining on 02.12.2022 before the learned Trial Court, subject to payment of cost of ₹75,000/- to Respondent Nos. 2 & 3 and ₹25,000/- to Delhi High Court Legal Services Committee within a period of four weeks from the date.

11. List before the learned Trial Court on 03.04.2024 for further proceedings.

AMIT MAHAJAN, J

FEBRUARY 29, 2024

“hkaur”/ “SS”