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

+ CRL.M.C. 1090/2024 & CRL.M.A. 4307/2024

JAGBIR SINGH

.....Petitioner

Through: Mr. Vishal Dabas, Mr.
Aishwarya Sharma & Ms.
Nancy Singh, Advs.

versus

THE STATE AND ANR NCT OF DELHI
THROUGH SHO & ANR.

.....Respondents

Through: Ms. Priyanka Dalal, APP
for the State

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

30.09.2024

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1. The present petition is filed seeking quashing of the order dated 28.08.2023 (hereafter '**the impugned order**') passed by the learned Metropolitan Magistrate in CT Case No. 9603/2019 titled as *Satyabir Singh @ Satbir Singh. v. Jagbir Singh*.
2. It is not disputed that the petitioner has already undergone sentence of imprisonment in default of payment of fine.
3. The learned counsel for the petitioner submits that the judgement passed by the Hon'ble Apex Court in the case of ***Kumaran v. State of Kerala and Anr. : AIR 2017 SCC 2433*** is not applicable to the facts of the present case.
4. This Court is of the opinion that the issue needs to be considered by the learned Trial Court at the first instance. The same has, admittedly, not been adjudicated by the learned Trial Court.
5. The impugned order only records that the appeal against



the order on sentence has been dismissed.

6. The application filed by the respondents seeking execution also did not mention that the petitioner had already undergone the sentence in default of payment. Petitioner has admittedly undergone sentence of imprisonment in default of payment of fine.

7. Concededly, the impugned order was passed *ex parte* and no opportunity was given to the petitioner to file a reply.

8. In view of the above, the matter is remanded back to the learned Trial Court for consideration afresh.

9. The learned Trial Court is directed to consider the matter afresh after considering the reply, if any, that may be filed by the petitioner.

10. To balance the equities, the petitioner is directed to maintain *status quo* as regard to the immovable properties owned by the petitioner till further orders that may be passed by the learned Trial Court.

11. The petitioner is also directed to file appropriate affidavit before the learned Trial Court indicating the properties owned by the petitioner.

12. The parties are directed to appear before the learned Trial Court on 05.11.2024.

AMIT MAHAJAN, J

SEPTEMBER 30, 2024

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