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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1398/2024 & CRL. M.A. 21740/2024
G.G. ENTERPRISES

.....Petitioner

Through: Ms. Shubhangda Singh, Advocate.

versus

YOGESH DHAWAN

.....Respondent

Through: None.

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+ CRL.M.C. 1399/2024 & CRL. M.A. 21741/2024
G.G. ENTERPRISES

.....Petitioner

Through: Ms. Shubhangda Singh, Advocate.

versus

YOGESH DHAWAN

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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20.12.2024

1. By way of the present application, the petitioner/complainant who had initiated the proceedings under Section 138/142 Negotiable Instruments Act, 1881 is aggrieved by the common order dated 05.01.2024 passed by learned JM in Complaint Case No. 703/2019 and 704/2019.
2. In the aforesaid proceeding, the respondent was convicted vide judgment dated 20.03.2023 and sentenced vide order dated 31.03.2023, pursuant to which the petitioner/complainant had filed an application under



Sections 418/421 Cr.P.C.

3. Learned counsel for the petitioner submits that though the petitioner was diligently pursuing the applications, while the respondent had failed to appear, resulting in issuance of non-bailable warrants against him. It is submitted that the matter was listed before trial court on 18.10.2023 when learned counsel for the petitioner inadvertently noted the wrong date of 20.01.2024, whereas the matter was actually listed for 02.11.2023. Consequently, due to the incorrect noting of the date, the counsel who appeared on 22.11.2023 and subsequent dates i.e., 07.12.2023 and 23.12.2023 was unaware of the correct schedule. Resultantly, the application came to be dismissed in default vide the impugned order dated 05.01.2024. It is further submitted that when the counsel appeared on 20.01.2024, she became aware of the impugned order passed. Learned counsel submits that the non-appearance before the Court was inadvertent and unintentional.

4. The notice of the petition was issued to the respondent and an affidavit of service has been filed. As per the affidavit, the respondent was served by way of dasti notice as well as the postal service. In Crl. M. C. 1398/2024, service was also effected through other modes and the service through speed post was refused. Affidavit of service is accompanied by the tracking reports. Insofar as in Crl. M. C. 1399/2024 is concerned, the service has been effected on respondent by way of dasti notice. It has been informed that dasti notice has been received by the respondent in person.

5. The respondent is duly served, however, has chosen not to appear. This Court has proceeded to hear the submission of the petitioner in his absence.

6. I have heard learned counsel for the petitioner. Considering the



submissions made and the explanation tendered for non-appearance, the same is found to be satisfactory.

7. Accordingly, the impugned order is set aside, subject to payment of composite costs of Rs.10,000/- to be deposited with the Delhi State Legal Services Authority (A/c No. 18580110053263, UCO Bank, Branch : Rouse Avenue, IFSC : UCBA0003364) within a period of two weeks from today. The amount so deposited shall be utilized by the DSLSA for providing counselling/psychological support to POCSO victims requiring such assistance.

8. Proof evidencing receipt of deposit shall be filed with the trial court.

9. In view of the above, the matters are directed to be listed before the concerned Court on 13.01.2025.

10. With the above directions, the petitions are disposed of alongwith the pending applications.

DASTI

MANOJ KUMAR OHRI, J

DECEMBER 20, 2024/ssc