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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1824/2024**
BLUE DIAMOND MULTIMEDIA PVT LTD AND ANR

.....Petitioners

Through: Ms. Swati Rathi, Adv.
versus

ASHOK KUMAR GUPTA

.....Respondent

Through: Mr. Sumit Rana, Mr. Arun Dalal and
Mr. Yatin, Advocates

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **12.08.2024**

1. The present Petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 to set aside the impugned Order dated 05.12.2023 passed by the learned MM, vide which the right of further cross examination of the complainant has been closed on account of non presence as warrants were issued.
2. It is submitted in the Petition that though the counsel for the petitioner had joined through VC, but due to poor connectivity, was not able to get the Attendance marked. It is submitted that on the subsequent date, the counsel appeared physically and an Application was allowed *vide* Order dated 05.12.2023 but the Petitioner was not allowed the right of cross examination and the right was automatically closed.
3. It is submitted that the petitioner has been regularly appearing and the non appearance was for the reason above stated. It is submitted that the impugned Order dated 05.12.2023, be set aside.
4. The learned counsel for the respondent has contested the Petition and has stated that this has been the regular conduct of the petitioner who does



not appear regularly in the Court thereafter, takes a plea that the connectivity of the VC was not good.

5. The petitioner was given opportunities to cross examine the complainant over one and a half year, despite which he has not come forth. The complainant is a senior citizen and is being harassed by the conduct of the petitioner.

6. **Submissions heard.**

7. The petitioner failed to appear before the Court on 05.12.2023 when the matter was listed for cross examination of CW 1. The remaining cross examinations were thus closed, and non-bailable warrants were directed to be issued against the petitioner. However, on the subsequent date i.e.15.02.2024, on the Application of the petitioner, the warrants were cancelled. Since the warrants had been issued on 05.12.2023 had been cancelled, in the interest of justice, the proceedings which are undertaken on 05.12.2023 should have also been set aside.

8. The petitioner is given one opportunity to cross examine the complainant on 25.09.2024, i.e. the date already fixed before the learned MM, subject to costs of Rs.10,000, which shall to be paid to the complainant before the cross-examination is allowed .

9. The petitioner shall appear in the Court physically and not take any excuse of there being a poor connectivity. No further opportunity for cross examination on any ground whatsoever shall be given to the petitioner.

10. With these directions, the Petition stands disposed of.

NEENA BANSAL KRISHNA, J

AUGUST 12, 2024/PT