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

(86) CRL.L.P. 215/2024

(87)+ CRL.L.P. 216/2024

JAIPAL

..... Petitioner

Through: Mr.Sudhir Shokeen, Adv.

versus

PANKAJ

..... Respondent

Through: Mr.Manish Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **30.04.2024**

CRL.M.A. 12968/2024 (Exemption) in CRL.L.P. 215/2024

CRL.M.A. 13048/2024 (Exemption) in CRL.L.P. 216/2024

1. Allowed, subject to all just exceptions.

CRL.M.A. 12969/2024 in CRL.L.P. 215/2024

CRL.M.A. 12970/2024 in CRL.L.P. 216/2024

2. These applications have been filed by the petitioner seeking condonation of 34 days' delay in re-filing the petitions.

3. For the reasons stated in the applications, the delay is condoned and the applications are allowed.

CRL.L.P. 215/2024

CRL.L.P. 216/2024

4. These petitions have been filed seeking leave to appeal against the order dated 20.12.2023 passed by the learned Metropolitan Magistrate, North District, Rohini Courts, Delhi, in Complaint Cases No. 11706/2015 and 11707/2015, both titled ***Jaipal Singh v. Pankaj***.

5. By the Impugned Order, the learned Metropolitan Magistrate has observed that the complaint cases have been pending for recording



of the Complainant's Evidence for a long time, and both parties have been taking joint adjournments repeatedly without mentioning any reasons, and causing unnecessary delay in the matter. Taking note of the same and further observing that the complainant was not serious in pursuing the complaint, the Complaint Cases have been dismissed in default.

6. The learned counsel for the petitioner submits that there was a bereavement in his family, because of which he could not appear before the learned Trial Court on 20.12.2023. He prays that the petitioner should not be made to suffer for the same.

7. The learned counsel for the respondent, who appears on advance notice, submits that he had been apprised by the counsel for the petitioner that he would be taking an adjournment on the day of the hearing before the learned Trial Court due to bereavement in his family. He submits that he has no objection to the Impugned Order being set aside and the complaint(s) being restored to its original number.

8. In view of the above, the petitions are allowed, and leave to appeal is granted. The appeals shall be numbered accordingly.

CRL.A. (to be numbered)

CRL.A. (to be numbered)

9. These appeals have been filed seeking setting aside of the order dated 20.12.2023 passed by the learned Metropolitan Magistrate, North, Rohini Courts, Delhi, in Complaint Cases No. 11706/2015 and 11707/2015, both titled *Jaipal Singh v. Pankaj*, dismissing the said Complaint cases in default. The appellant prays that the Complaint



Cases be restored.

10. It is noticed that the above complaints under Section 138 of the Negotiable Instruments Act, 1881, were filed by the petitioner sometime in 2015. The matter has been fixed for recording of the evidence of the complainant on a number of occasions, however, the learned counsel for the petitioner submits that as the parties were exploring the possibility of arriving at an amicable settlement, hence joint adjournments were being sought.

11. While the parties cannot at their own wish dictate when the complaint cases should be taken up for further proceedings before the learned Trial Court, and keep taking repeated adjournments, at the same time, as a genuine cause is shown for the non-appearance of the counsel for the petitioner on 20.12.2023, the Impugned Order is set aside. The Complaint Cases are accordingly restored back to their original numbers.

12. The parties shall appear before the learned Trial Court on 16th May, 2024.

13. It is made clear that the learned Trial Court would not grant any further adjournments to either of the parties in the aforesaid Complaint Cases, except on a genuine cause being shown. This restoration is being done as a last indulgence to the parties.

14. The appeals are allowed in the above terms.

NAVIN CHAWLA, J

APRIL 30, 2024/rv/am

*Click here to check corrigendum, if any *