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

+ CRL.L.P. 65/2017

SOM DUTT BAKSH

.....Petitioner

Through: Mr.Puneet Yadav, Mr.Sourabh, Gupta
and Ms.Ananya Gupta, Advocates.

versus

RAJIV MEHTA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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24.07.2024

The present petition has been filed for setting aside the impugned order dated 23.12.2016 whereby the complaint being C.C.No.7564/2015 under Section 138 N.I.Act was dismissed for non-prosecution. Learned counsel for the petitioner submits that on two consecutive dates, none could appear on behalf of the complainant on account of inadvertence of the counsel for wrongly noting down of the date and subsequently non-appearance of the counsel for the complaint for the reason beyond his control. Learned counsel for the petitioner submits that if the complaint is not restored, the petitioner will suffer great prejudice.

None has appeared for the respondent. However, I have gone through the reply and the written synopsis. The present petition has been opposed by the respondent on the ground that no plausible ground has been given for the restoration of the complaint.



I have considered the submissions. The order dated 23.12.2016 indicates that the complainant failed to appear on three consecutive calls. However, as per the contention of the petitioner, the case got dismissed in default for the fault of the lawyer. I consider that for the fault of the lawyer, the party should not suffer.

Hence, without going into the merits of the case, the present petition is allowed. However, the petitioner is burdened with a cost of ₹5000/-. The complaint case is restored to its original number subject to the deposit of fine with the Delhi State Legal Services Authority within one month.

Copy of the receipt be furnished.

DINESH KUMAR SHARMA, J

JULY 24, 2024

rb/dg