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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3602/2024 & CRL.M.A. 13829/2024**

K N INFRACON PVT LTD Petitioner

Through: Mr. Saurabh Yadav, Adv.

versus

NARENDRA BHAI HIMMAT BHAI Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
06.05.2024

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1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') challenging the order dated 01.03.2024 (hereafter '**the impugned order**'), passed by the learned Additional Sessions Judge ('ASJ'), Patiala House Courts, New Delhi, in CRL. REV No. 132/2024 titled '*KN Infracon Pvt. Ltd. v. Narendrabhai Himmatbhai Patel*'.

2. The learned ASJ, by the impugned order, dismissed the revision petition filed by the petitioner against order dated 30.03.2021, passed by the learned Metropolitan Magistrate ('MM'), whereby the respondent was acquitted for the offence under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act'), on the ground of inordinate delay.

3. The Revision Petition challenging the order dated 30.03.2021 under Section 397 of the CrPC was filed after a period of 925 days. The reasons mentioned for seeking condonation of delay as noted by the learned ASJ were that the petitioner was undergoing severe financial crisis owing to lockdown due to which it defaulted in payment of rent to
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landlord; the relevant documents were left in the office without any access to any of employee of the petitioner company; the Authorized Representative of the petitioner company, who was looking after the matter, met with an accident and died on 26.09.2020; the previous counsel for the petitioner company also got infected with Covid-19; the documents from the earlier office were shifted to the new office only in August, 2023 and the file thereafter was traced in September, 2023.

4. It is trite law that delay can be condoned if the applicant is able to satisfy the Court that there was sufficient cause for the delay.

5. The learned ASJ in the impugned order had observed in detail as to how the petitioner had failed to show 'sufficient cause' for condonation of delay. The relevant portion of the order is reproduced hereunder:

“6. There is long delay of 925 days in filing the present revision petition from the date of impugned order i.e. 30.03.2021 till 27.02.2024. Ld.counsel for the revisionist sought condonation of delay of such a long period of 925 days on the prevailing circumstances due to covid-19. It is true that the delay during the covid-19 period was condoned by Hon'ble Apex Court, however, after the said period, there is unexplained delay for a long period in filing the present revision petition. It is for the revisionist/complainant to take care of his litigation and the revisionist can not be allowed to take benefit of his casual approach. It is not out of place to mention that the Ld. Trial Court has dismissed the complainant case on 30.03.2021 with the observation that the matter is pending since 2015, however, no steps have been taken by the complainant to secure the presence of the accused. The aforesaid conduct of the revisionist before the trial court also shows his casual approach towards the prosecution of present case. The revisionist has given a very vague cause for condonation of delay for a such long period. It was stated that the AR of the complainant looking after the matter has expired on 26.09.2020. the present



matter was dismissed on 30.03.2021 much after the alleged death of AR of complainant. Therefore, the same can not be considered as sufficient cause for condonation of delay.

7. It was also stated that the file was traced in August 2023 only and the impugned order came to the knowledge of the complainant in September 2023. It is not out of place to mention that there is inordinate delay invoking jurisdiction of this court under Section 397 Cr. PC, even after having the knowledge of impugned order in September 2023. It is well settled law that the courts shall not come to the rescue of a litigant, who is sleeping over his rights despite sufficient opportunities.”

6. Clearly, the petitioner has not been able to show any sufficient cause for not preferring the petition within the stipulated period. The learned ASJ has rightly noted that the reasons given by the petitioner for delay are vague in nature and that even if it is believed that the order dated 30.03.2021 only came in the knowledge of the petitioner in September, 2023, even then there is inordinate delay by the petitioner in preferring the revision petition.

7. It is also seen that the learned MM had dismissed the case by order dated 30.03.2021 for non-prosecution with the observation that the matter was pending since the year 2015 but the petitioner, despite several opportunities, had not taken any steps to secure the presence of the accused/ respondent.

8. The Hon'ble Supreme Court in ***RE: Expeditious Trial of Cases Under Section 138 of N.I. Act : 2021 SCC OnLine SC 325***, noting the huge pendency of complaints under Section 138 of the Negotiable Instruments Act, 1881 and their adverse effect in disposal of other criminal cases, directed the High Courts to issue practice directions to the Magistrate. It was noted that Section 143 of the NI Act was introduced as step in aid for quick
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disposal of the complaints under Section 138 of the NI Act. It was held that it is sufficient for the Magistrate to record the substance of the evidence and deliver a judgment containing a brief statement of reasons for his findings and the Magistrate must give reasons for converting the trial from summary trial to summons trial.

9. In such a case, if such extensive delay is condoned in a routine manner, especially, in proceedings in relation to NI Act, the object of the NI Act to ensure speedy disposal of cases would be defeated. Every litigant has a vested right to pursue their remedy, however, the conduct of the petitioner in the present case in demonstrating delay in not just preferring the revision against the order dated 30.03.2021 but also in not pursuing the complaint with diligence cannot be ignored in absence of any plausible reason for such a long period of delay.

10. In view of the above, this Court finds no infirmity with the impugned order. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

MAY 6, 2024
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