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

+ CRL.M.C. 4661/2023

PRADEEP KUMAR

..... Petitioner

Through: Mr.Surender Mishra, Advocate

versus

THE STATE (NCT OF DELHI) & ORS.

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

22.04.2024

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1. By way of present petition filed under Articles 226 and 227 of the Constitution of India read with Section 482 Cr.P.C, the petitioner seeks quashing of the FIR No.1167/2022 registered under Section 174A IPC at PS Mangolpuri, Delhi.

2. The facts necessary for consideration of the said petition are that the petitioner was arrayed as an accused in a complaint being CC No.21336/2016 filed under Section 138/142 of the Negotiable Instruments Act, 1881 ('NI Act ') read with Section 357 Cr.P.C.. In the said proceedings, the petitioner was summoned and in pursuance of summons, learned counsel for the petitioner appeared before the Trial Court on 06.05.2019 alongwith petitioner's wife. However, thereafter on account of outbreak of Covid-19, the petitioner claims that the hearing was shifted to virtual mode and he could not keep track of the dates of hearings. In the meantime, the complainant expired and his son namely *Rajat Kumar Kanodia* entered into a settlement with the petitioner and in this regard, an undertaking cum NOC



was also executed. At the same time, in the proceedings before the learned Trial Court, on account of non-appearance of the petitioner, proceedings under Section 82 Cr.P.C were initiated against him resulting in his declaration as proclaimed offender on 13.09.2022. The instant petition is also accompanied by the undertaking/NOC issued by *Mr. Rajat Kanodia*, son of the deceased complainant, in which he has stated that the entire amount under the settlement has been received by them. In pursuance of the settlement, an application for withdrawal of the complaint has also been filed, however, the same is pending consideration before the concerned Trial Court. Insofar as the petitioner's declaration as proclaimed offender is concerned, it is stated that the petitioner was not residing at the address on which he was sought to be served i.e. Heera Colony, Railway Road, Post and Tehsil Sikandrabad, District Bulandshahar, Uttar Pradesh. The petitioner has claimed that on account of some dispute in the family, the mother of the petitioner had debarred him from all movable and immovable properties and in this regard, a notice was also published in the newspaper 'Rastriya Sahara' on 24.11.2015.

3. Notice of the instant petition was issued and respondent No.2/original complainant (deceased) served through his son. However, there is neither any appearance on his behalf nor any reply has been filed on his behalf. It is also informed that pursuant to the directions issued by this Court, the petitioner has put in an appearance before the learned Trial Court.

4. The notice issued in the 'Rastriya Sahara' newspaper whereby the petitioner was debarred by his mother from her movable and immovable properties, preceded the order declaring the petitioner as proclaimed offender.



5. Concededly, the parties have settled the dispute and an application for withdrawal/compounding of the offence has also been filed before the concerned Trial Court, though the same is pending consideration. The present petition is also accompanied by a copy of the Undertaking cum NOC issued by the *Mr. Rajat Kanodia*, son of the original complainant.

6. Considering the aforesaid, this Court is of the considered opinion that the petitioner has been able to make out a case and has given sufficient justification for his non-appearance before the Trial Court. Accordingly, the petition is allowed and FIR No.1167/2022 registered under Section 174A IPC at PS Mangolpuri, Delhi and all consequent proceedings arising therefrom are hereby quashed.

7. The petition is disposed of in above terms.

MANOJ KUMAR OHRI, J

APRIL 22, 2024