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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 7369/2023, CRL.M.A. 27464/2023**

SUNIL JAIN

..... Petitioner

Through: **Mr. Nitish Sharma, Advocate.**

versus

THE STATE & ANR.

..... Respondents

Through: **Mr. Sanjeev Sabharwal, APP for State**
Mr. Sandeep Chilana, Mr. Abdullah
Tanveer and Ms. Vaishnavi Gupta,
Advocates for respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

12.03.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks to set aside the order dated 25.07.2023 passed by learned M.M. (NI Act) (Digital Court – 01), South, Saket Courts, New Delhi in Complaint Case No. 7724/2022 whereby process under Section 82 Cr.P.C. has been issued against the petitioner.

2. Learned counsel for the petitioner submits that the subject proceedings have been initiated by the respondent under Section 138 of the Negotiable Instrument Act, 1881. It is submitted that process under Section 82 Cr.P.C. has been issued without following the necessary steps, inasmuch as, no NBWs have been issued against the petitioner.

3. It appears that initially summons were issued in the complaint case. The son of the petitioner refused to take summons and vide order dated 18.04.2023, the service was deemed to be effected. The Trial Court vide the



same order issued the bailable warrants subsequent to which counsel for the petitioner appeared and sought opportunity to file an application seeking cancellation of bailable warrants.

4. During the course of his submissions, counsel for the petitioner states that petitioner never intended to undermine the authority of the court and evade his appearance before the Trial Court. Learned counsel, on instructions, states that petitioner undertakes to appear regularly before the Trial Court. The undertaking is accepted and taken on record. Accordingly, the impugned order is set aside to the extent whereby process under Section 82 Cr.P.C. has been issued, subject to petitioner appearing regularly before the Trial Court and also payment of cost of Rs.5,000/- to be paid to respondent by way of demand draft within two weeks from today.

5. Petition is disposed of in the above terms alongwith miscellaneous application.

MANOJ KUMAR OHRI, J

MARCH 12, 2024

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