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

+ **CRL.A. 608/2024**

KULDEEP SHARMA

.....Appellant

Through: Mr. Rahul Dev Tyagi, Mr. Tarun N.
Tyagi, Mr. Akashat Shandilya, Ms.
Sangeeta Tyagi, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI) & ANR.....Respondents

Through: Mr. Mukesh Kumar, APP for the state

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

07.11.2024

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1. The present appeal has been filed challenging the order dated 16.11.2021 passed by learned MM (NI Act), East District, Karkardooma Court, Delhi where a complaint under Section 138 NI Act being CC No.55686/2016 titled as '*Kuldeep Sharma v. Naveen Kumar Goyal*' was filed. It was alleged that the cheque bearing No.764080 for an amount of Rs.1,50,000/- and cheque No. 764081 for an amount of Rs.1,00,000/- both drawn on ICICI Bank Ltd., Raj Nagar, Ghaziabad Branch was issued by the respondent to the complainant. The cheques were dishonoured, therefore, upon the cause of action being arisen the complaint case was filed.
2. The respondent was duly summoned by learned Trial Court and notice was issued.
3. The complainant/appellant led his evidence. The complainant evidence was closed. While the case was fixed for respondent's evidence the complainant/appellant could not appear on 16.11.2016



and the same was dismissed in default for non prosecution.

4. Learned counsel for the appellant submits that non appearance of the petitioner on 16.11.2016 was not intentional and hence, the appeal may be allowed to its original number. It has been submitted that if the complaint was not restored the appellant will be prejudiced.
5. I have considered the submissions.
6. The case was in the trial at an advance stage of respondent's case and was dismissed in default for non appearance.
7. Notice was issued to Respondent no.2 vide order dated 04.05.2017 by this Court and subsequently Respondent no.2 appeared in person as recorded in order dated 03.05.2018.
8. I consider that the matter should be decided on the merits. The non appearance on the date fixed on 16.11.20216 does not seems to be intentional. Hence, the appeal is allowed and the complaint case No.55686/2016 titled as Kuldeep Sharma v. Naveen Kumar Goyal is restored to its original
9. Let the complainant/petitioner be appear before the learned CMM, East, KKD on 22.11.2024.
10. Learned CMM, East, KKD shall assign the case to the concerned Court for the trial in accordance with the law.
11. Copy of the order be sent to the Learned Principal and District Judge, East, KKD Court and learned CMM, East, KKD Court.

DINESH KUMAR SHARMA, J

NOVEMBER 7, 2024

Pallavi/KR