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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 7743/2023, CRL.M.A. 28881/2023**

NEERAJ SRIVASATVA AND ANR Petitioners
Through: **Mr. Amit Verma, Advocate.**

versus

RITESH JAIN Respondent
Through: **Mr. Shankar Rastogi, Mr. Shiv Kant Arora, Mr. Rajesh and Mr. Aman Kapoor, Advocates.**

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
08.02.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks to assail the order dated 30.04.2022 passed by the learned ASJ (South), Saket, New Delhi in CRL. APPEAL No. 505/2018 whereby petitioners' appeal has been dismissed in default for non-prosecution. Subsequently, an application seeking restoration also came to be dismissed on 06.10.2022.
2. Mr. Rastogi, learned counsel for the respondent states that petitioners failed to appear on as many as 7 consecutive dates before the Appellate Court thereby leaving the Appellate Court with no option but to dismiss the appeal. Subsequently, on account of petitioners' non-appearance, even proceedings under Section 82 Cr.P.C. was initiated, which fact has not been disclosed in the present petition.
3. Learned counsel for the petitioners has claimed that they could not appear before the Appellate Court on account of miscommunication between



them and their counsel and undertakes to regularly appear and pursue their appeal.

4. Considering that the petitioners have taken steps for restoration within six months of the dismissal, this Court is of the considered opinion that ends of justice would be met if the appeal is considered and decided on merits. Accordingly, present petition is allowed and appeal is restored at its original number, subject to cost of Rs.50,000/- to be paid to the respondent by way of a demand draft/electronically within two weeks from today.

5. Let appeal be listed at the first instance on 23.02.2024. Subject to petitioners appearing before the Appellate Court on the date fixed and paying the cost, the proceedings before the learned M.M.-04, South East District, Saket, New Delhi wherein process under Section 82 Cr.P.C. has been issued shall stand quashed.

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

7. A copy of this order be communicated to the concerned Courts

MANOJ KUMAR OHRI, J

FEBRUARY 8, 2024

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