



\$~35

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

+ CRL.L.P. 521/2022 & CRL.M.A. 23664/2022, CRL.M.A.
24056/2023

OM KRISHNA TRADERS

.....Petitioner

Through: Mr. Sandeep Thakur, Adv.

versus

SH VIKAS VOHRA

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

14.11.2024

%

CRL.L.P. 521/2022

1. This is a petition seeking leave to appeal against the judgment dated 05.12.2019 passed by the learned MM (Central), Tis Hazari Courts, Delhi in CC No. 537463/2016 wherein the complaint filed by the petitioner under Section 138 of the NI Act was dismissed in default.
2. In the order dated 17.11.2022, this Court recorded that since the respondent was not represented before the learned MM, the petitioner be exempted from serving the respondent.
3. I find force in the said submission as the complaint under Section 138 of the NI Act was dismissed for non-prosecution and the respondent had not been served. Hence, the application can be heard and decided in the absence of the respondent.
4. For the said reasons, I am satisfied that the petitioner should be granted leave to appeal and the petition seeking leave to appeal is accordingly allowed.
5. Pending applications, if any, are disposed of.

CRL.A. ____/2024 (to be numbered)



6. This is an appeal for setting aside judgment dated 05.12.2019 passed by the learned MM (Central), Tis Hazari Courts, Delhi in CC No. 537463/2016 under Section 138 of the NI Act wherein the accused-respondent was acquitted for all charges as the complaint was dismissed for non-prosecution.

7. It is stated by Mr. Thakur, learned counsel for the appellant that the earlier counsel did not appear before the Court. Hence, even though the AR of the appellant was present in Court during the hearings, he could not appear in the absence of the counsel.

8. The complaint has been dismissed for non-prosecution and I am of the view that the endeavour of the Court should be to adjudicate complaints on merits. The respondent also had not appeared and hence, no prejudice would be caused to the respondent in case the appeal is allowed and the complaint is restored.

9. However, the appellant has consumed valuable time of the Court and Mr. Thakur undertakes to pay a sum of Rs. 15,000/- to DHCLSC within 4 weeks from today and will file a proof of payment before the Registry as well as the learned MM (Central).

10. The appeal is allowed, and the complaint is restored to its original number. The appellant shall appear before the concerned MM (Central) on 06.12.2024 for further proceedings.

11. The appeal is disposed of accordingly.

JASMEET SINGH, J

NOVEMBER 14, 2024/sp

[Click here to check corrigendum, if any](#)