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

+ **CRL.M.C. 9038/2023**

SUSHIL KUMAR GIRDHAR

..... Petitioner

Through: Mr. Yogesh Sharma, Advocate.

versus

STATE NCT OF DELHI THROUGH

SHO PS PRASAD NAGAR

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Arvind Singh PS Prasad
Nagar, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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29.01.2024

1. By way of present petition, the petitioner seeks to assail the order dated 12.10.2017 passed by learned MM, Central, Tis Hazari Courts, Delhi in CC No.483/1/14 vide which the petitioner's complaint came to be dismissed in default for non-prosecution.
2. Learned counsel for the petitioner contends that the non-appearance on behalf of the petitioner was not wilful as the petitioner had examined himself during the pre-summoning evidence stage. Thereafter the counsel representing the petitioner unfortunately expired and thus the petitioner could not know the status of the case. He submits that petitioner has filed two complaints – one for himself and one on behalf of his son, with respect to allotment of residential flat offered by the respondent. He submits that the respondent was not even summoned before the trial court and therefore no prejudice would be caused by restoration of petitioner's complaint case. He



has referred to the order dated 07.12.2024 passed by a Coordinate Bench of this Court in Crl. M.C.8939/2023, wherein under similar circumstances, the complaint case has been restored.

3. Issue notice.
4. Notice is accepted by the learned APP for State.
5. Considering that the Coordinate Bench has restored the criminal complaint in the connected case, the petition is allowed and the petitioner's complaint is directed to be restored to its original number. However, considering the fact that there is some delay on the part of the petitioner in approaching the Court, cost of Rs.5,000/- is imposed upon him to be deposited with the Delhi State Legal Services Authority within two weeks from today. Proof evidencing receipt of the same shall be placed on record.
6. The petition is disposed of in above terms.

MANOJ KUMAR OHRI, J

JANUARY 29, 2024/*rd*