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

+ **CRL.M.C. 7402/2024**

RAMESHWARI JADHAV

.....Petitioner

Through: Mr. Manu Beri, Mr. Varun Varma,
Mr. Prakhar Shukla, Advocates.

versus

STATE OF NCT DELHI

.....Respondent

Through: Mr. Hitesh Vali, APP for State with
ASI Suresh Chand and SI
Prabhakaran, PS: Dwarka South.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
19.09.2024

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1. This petition has been filed for cancellation for NBWs issued on 19th May, 2022 against the petitioner by MM, Dwarka Courts, New Delhi, in CC No. 3489/2021, proceedings under Section 138 to the Negotiable Instruments Act and the consequent proclamation proceedings under Section 82 Cr.PC, by order dated 28th February, 2024.
2. The petitioner/accused was admitted to bail on 7th October, 2021, and submitted the surety bonds.
3. On 09th November, 2021, counsel appeared for the accused and stated that the accused persons are not resident in Delhi. Moreover, parties were referred to mediation for exploring possibilities of settlement.
4. Counsel for complainant was thereafter present on subsequent dates on



20.12.2021, 20.01.2022. On 05th March, 2022 It was noted that mediation has failed between the parties and no one had appeared on behalf of the accused.

5. ON 19th April, 2022, no one had appeared on behalf of the accused; NBWs were issued. On 24th March, 2023, fresh process under Section 82 Cr.P.C against the accused was to be executed.

6. Thereafter, an application was filed under Section 70(2), C,r.P.C seeking cancellation of non-bailable warrants on 26th July, 2023. It was stated that the accused had engaged previous counsel, Advocate Siddharth Kaushik to represent the accused and since the mediation proceedings were going on, they were relying on the counsel.

7. However, in the meantime, the accused was undergoing treatment for cyst in her brain for the last two years due to which her travelling was restricted and medical reports were also produced. When she was intimated that an NBW had been issued, respondent made several attempts to contact the previous counsel, but he did not respond, therefore, new counsel was appointed.

8. On 31st August, 2023, counsel for the accused was present. It was stated that process will be cancelled only after the accused makes an appearance in person before the Court and deposit costs of Rs. 10,000/- with DLSA Dwarka. The said costs of Rs. 10,000/- was deposited.

9. However, on the next date, 28th February, 2024, despite having connected through the VC, as per the petitioner, presence could not be marked and the petitioner was declared an absconder.

10. Counsel for the petitioner states that even while the application under Section 70 (2) of Cr.P.C was pending and the Court is a Digital Court which conducts proceedings through video conferencing, and that the petitioner is



not resident of Delhi and has a medical condition, Court ought to have shown some leniency before declaring the petitioner as an absconder and directing FIR under Section 174A to be registered against the accused.

11. In these circumstances, and having perused the medical records of the petitioner, in the opinion of this Court, considering that the accused has already paid the cost of Rs. 10,000/-, the appearance of the accused can be ensured through Video Conferencing before the Court.

12. The accused shall be present before the Court on the next date i.e. 21st September, 2024 through VC.

13. If deemed necessary by the Trial Court, to require the presence of the accused in physically in Court, due accommodation can be given to her medical condition.

14. The order dated 28th February, 2024, stands set aside. The FIR no. 134/2024 registered under Section 174A IPC is accordingly quashed.

15. Counsel for petitioner states on undertaking that the accused shall not be delinquent in appearing before the Court and not delay proceedings on any account whatsoever.

16. Petition is disposed of.

17. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 19, 2024/RK

Click here to check corrigendum, if any