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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1716/2025**
SH. L.S. SOLANKIPetitioner

Through: Appearance not given.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Amit Tiwari, CGSC with Mr. Ayush Tanwar and Ms. Ayushi Srivastava, Advs. for R-1/UOI with SI Sharmila Yadav, PS. Gulabi Bagh, Delhi.

Mr. Hitesh Wali, APP for State.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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11.03.2025

CRL.M.A. 7729/2025 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 1716/2025

3. The present petition has been filed under Section 528 BNSS against the impugned order dated 29.10.2024 passed by the learned Additional Chief Judicial Magistrate -02, District Central, Tis Hazari Courts, Delhi in CIS No. 566/2021, titled as *L.S. Solanki vs. Union of India & Anr.*, whereby the complaint case filed by the present petitioner was dismissed in default for non-appearance.

4. The petitioner appearing in person submits that the non-appearance on 29.10.2024 was for the second time, the first non-appearance being on 29.05.2024. He submits that the petitioner had wrongly noted the date of hearing as 31.01.2025 instead of 29.10.2024, therefore, he could not appear



on the said date.

5. Issue notice. Mr. Amit Tiwari, learned CGSC for the respondent/UOI, as well as, Mr. Hitesh Wali, the learned APP for the State, accept notice.

6. The learned CGSC points out that the non-appearance was on three occasions. He invites attention of the Court to the order dated 22.05.2024 to contend that the final opportunity was granted to the present petitioner to lead pre-summoning evidence. The learned ACMM had further made clear that in case of non-appearance of the complainant on the next date, the matter shall be dismissed in default.

7. He submits that notwithstanding the observations, again the complainant and his counsel did not appear on 29.10.2024 which led to the dismissal of the complaint for non-prosecution.

8. Having regard to the rival contentions of the parties, this Court is of the view that the interest of justice will be served in case the present petition is allowed subject to the payment of costs of Rs. 5,000/-.

9. Accordingly, the petition is allowed and the complaint is restored to its original number, subject to the deposit of cost of Rs. 5,000/- by the petitioner with the Delhi High Court Advocates Welfare Fund.

10. The petition stands disposed of in the above terms.

11. Let the parties appear before the learned Trial Court on 21.04.2025.

VIKAS MAHAJAN, J

MARCH 11, 2025/dss