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

+ **CRL.L.P. 324/2022**

ALOK MASTERBATCHES PVT LTD

.....Petitioner

Through: Ms. Kirti Mewar, Adv.

versus

LAKSHYA PLOYTEX PVT LTD

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

10.02.2025

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1. This is a petition seeking leave to appeal challenging the judgment 01.04.2022 passed in Complaint Case No. 42014 of 2019 titled as "*Alok Master batches Pvt. Ltd. Vs. Lakshya Polytex Pvt. Ltd.*", passed by learned MM-04 (N.I. Act)/ South-east, Saket District Court, Delhi.
2. It is stated by Ms. Mewar, learned counsel for the petitioner that in the present case, the petition was dismissed for non-prosecution.
3. It is stated that on account of Covid-19 pandemic, the case was missed out from the diary of the counsel for the petitioner and subsequently, the same could not be followed up.
4. Even though notice has been issued, the respondent is not served.
5. In the present case, the complaint filed under Section 138 of Negotiable Instruments Act was dismissed at a stage where the notice had not been issued to the respondent.
6. Hence, the presence of the respondent is not necessary for the



purposes of disposal of the leave to appeal.

7. For the said reasons, leave to appeal is allowed and is granted to the petitioner.

CRL.A. /2025 (To be numbered)

8. The Registry is directed to number the appeal.
9. The appeal is also taken up for hearing today.
10. In the present case, the appellant had filed a complaint under Section 138 of Negotiable Instruments Act for bouncing of cheque.
11. The complaint was dismissed for non-prosecution on 01.04.2022, at a stage wherein summons had not been issued to the respondent.
12. The reason given by the learned counsel for the appellant is that the matter was pending during Covid-19 pandemic and hence, was missed out from the diary of the counsel for the appellant seems justifiable.
13. This Court is of the opinion that the endeavor of the Court should be to hear the disputes and decide them on merits rather than on technicalities.
14. For the said reasons, the appeal is allowed and the impugned judgment dated 01.04.2022 is hereby, set aside.
15. The appellant shall appear before the learned concerned ACMM South-east, Saket District Court, Delhi on 28.02.2025 at 10:00 a.m., where the learned ACMM will mark it to the concerned MM for appropriate proceedings therefrom.
16. However, the appellant has been negligent and has consumed valuable judicial time and hence, must pay some costs.
17. The petitioner shall pay a sum of Rs. 10,000/- to Delhi High Court Clerics Association.



18. On paying the costs, proof of the same shall be filed before the learned ACMM.
19. The appeal is allowed and is disposed of in the aforesaid terms.

JASMEET SINGH, J

FEBRUARY 10, 2025/sp

Click here to check corrigendum, if any