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

+ CRL.L.P. 72/2025

M/S NIRANKARI JEWELS PVT. LTD. THROUGH ITS
DIRECTOR JASBIR NARANG

.....Petitioner

Through: Mr. Anshuman Gupta and Mr.
Rishabh Karan Mehta, Advocates.

versus

RAJAN TANEJA

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

31.01.2025

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CRL.M.A. 3098/2025 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

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3. A Criminal Leave Petition under Section 419(4) read with Section 528 of BNSS, 2023 has been filed to challenge the Order dated 12.11.2024 vide which the Complaint under Section 138 N.I. Act was dismissed for non-appearance of the Petitioner/Complainant.

4. **Submissions heard.**

5. Learned counsel for the Petitioner has submitted that in compliance of the Orders of the Court a cost of Rs.1500/- was deposited on 16.04.2024 and the Process Fee was also submitted on 18.04.2024 for 12.11.2024, despite



which the case has been dismissed on account of non-appearance by observing that no PF has been filed to issue of summons to the Accused.

6. In the case of Hindustan Domestic Oil & Gas Co. (Bombay) Limited & Ors. vs. State & Ors. 2012 (4) JCC 2310, it was observed that an Order dismissing the complaint for non-prosecution or in default, which is made the subject matter of the revision, cannot be equated with “revision petitions” that are filed on substantive grounds or touch on the merits. Courts have recognized difference between orders which are procedural and substantive orders. [Grindlays Bank Ltd. vs. Central government Industrial Tribunal and Ors. 1980 (Supp) SCC 420]. It was thus held that an Order dismissing the complaint in default or non-prosecution did not touch upon factual or legal merits of the complaint. It is a reflection on or about the conduct of the complaint in proceedings before the Court and the opinion formed by Court about said conduct. Such orders if they did not reflect and take into consideration merits of the case or complaint, would not require notice to the opposite side when examined in a revision petition. Such orders are not prejudicial to other side as they did not reflect and take into consideration merits and demerits of the allegations. When a Revision Petition is filed against an order dismissing a complaint for non-prosecution or in default and same is allowed, it is not an order that causes prejudice to opposite side, as there was no application of mind or reflection on merits, whatsoever. This distinction has to be thus, kept in mind.

7. The accused has not put an appearance till date and the impugned Order is essentially a procedural Order.

8. Considering the submissions made, the impugned Order is set aside and the Complaint under Section 138 NI Act is restored.



9. List before the learned CJM on 17.02.2025, and thereafter, he may mark it to the Court of competent jurisdiction.

NEENA BANSAL KRISHNA, J

JANUARY 31, 2025/va