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

+ **CRL.L.P. 316/2017 & CrI.M.A. 8546/2017**

**NATIONAL SCHEDULED CASTES FINANCE &
DEVELOPMENT CORP**

.....Petitioner

Through: Mr. Rakesh Sinha, Mr. M.D. Ghulam
Akbar, Mr. Jeemon Raju, Ms. Shruti
Shashi, Mr. Sushant Shekhar,
Ms. Suman Lata & Ms. Nandini
Sharma, Advocates

Versus

STATE, NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Yudhvair Singh Chauhan,
Additional Public Prosecutor for
Respondent-State

+ **CRL.L.P. 318/2017 & CrI.M.A. 8549/2017**

**NATIONAL SCHEDULED CASTES FINANCE &
DEVELOPMENTS CORP**

.....Petitioner

Through: Mr. Rakesh Sinha, Mr. M.D. Ghulam
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Additional Public Prosecutor for
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CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA



ORDER

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28.04.2025

Crl.M.A. 8546 /2017 in Crl.L.P.316/2017

Crl.M.A. 8549/2017 in Crl.L.P. 318/2017

1. There is delay of 362 days in filing the accompanying Petitions seeking Leave to Appeal against the Order dated 08.12.2015.
2. For the reasons stated, the Applications are allowed and the delay is condoned.
3. The Applications are accordingly disposed of.

CRL.L.P. 316/2017

CRL.L.P. 318/2017

4. These Leave to Petition under Section 378(4) Cr.P.C. have been filed against the Impugned Order dated 08.12.2015 vide which the Ld. Metropolitan Magistrate has dismissed the Complaint Case No. 3898/2015 and Complaint Case No. 3899/2015 filed by the Petitioner for non-prosecution as well as non-appearance.
5. For the reasons stated, the Petitions are allowed. The Appeals be registered.
6. The Leave Petitions stand disposed of accordingly.

CRL.APPEAL --- (TO BE NUMBERED)

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1. These Appeals have been preferred by the Appellant/National Scheduled Castes Finance & Developments Corporation, against the Order dated 08.12.2015 passed by the learned Metropolitan Magistrate whereby the Complaint Case No. 3898/2015 and Complaint Case No. 3899/2015



filed by the Appellant have been dismissed for non-prosecution as well as non-appearance.

2. It is submitted that the Complaints were initially filed before the learned Magistrate in Patiala House Court, but thereafter Ordinance was passed by the President of India, *the Negotiable Instruments (Amendment) Second Ordinance, 2015*, which came into force w.e.f. 15.06.2015. In view of the said Amendment, *vide* Order dated 03.11.2015, the learned M.M. sent the files to learned C.M.M. which was taken up on 16.11.2015 and was directed to be listed in Saket Court Complex, on 20.11.2015.

3. On 20.11.2015, the learned C.M.M. did not hold the Court and the files were assigned to the Court of learned M.M., who directed the parties to appear on the next day i.e. 21.11.2015 at 02:00 PM.

4. On 21.11.2015, the learned M.M. issued Notice to the parties and the matter was adjourned to 30.01.2016. However, two days later, on 24.11.2015, the Complaints were again taken up by the learned M.M. and the date was changed to 08.12.2015 without any Notice to the Complainant.

5. On 08.12.2015, both the Complaints were dismissed for non-prosecution and non-appearance.

6. It is submitted that the Date had been changed without there being any prior Notice to the Complainant on account of which he was unable to appear. It is submitted that non-appearance of the Appellant was unintentional and the impugned Order may be set aside.

7. The impugned Order notes that service upon accused no. 4, 8, 9, 11, 12 and 13 was not affected despite number of opportunities given to the Complainant.

8. Respondent No.1 is served but Respondents No. 2 to 10 are not yet



served.

9. Submissions heard and record perused.

10. Some of the respondents are yet to be served, while others have already been served, but that does not constitute a bar to the continuation of the present proceedings. The Allahabad High Court in Brajpal Singh vs. Kalyan Singh, in Writ (C) No. - 74265 of 2011 decided on 03.03.2020, has recently endorsed this view.

11. Essentially, the grounds for non-appearance on 08.12.2015 taken by the Appellant are that the Complaints were listed on that day without issuing any Notice to the Complainant. The Record shows that the Complaints had been adjourned for 30.01.2016 but after two days i.e. on 24.11.2015, on the endorsement that as per the direction of the Apex Court in the order passed in 'In Re: Expeditious Trial Of Cases Under Section 138 Of N.I. Act 1881', the matters had to be disposed of expeditiously, the dates were changed and Complaints were posted for 08.12.2015 though the Complainant was issued Notice for 30.01.2016.

12. Cogent explanation has been given for non-appearance of the Complainant on 08.12.2015

13. Considering the reasons and the submissions made, the impugned Orders dated 08.12.2015 passed by the learned Metropolitan Magistrate whereby the Complaint Case No. 3898/2015 and Complaint Case No. 3899/2015 are set aside, the Complaints are directed to be restored to their original number and position, subject to cost of Rs. 25,000/- to be paid in favour of 'Delhi High Court Advocates Welfare Funds'.

14. Parties are directed to appear before the learned C.M.M. on 09.05.2025 to mark it to the concerned M.M.



15. It is pertinent to mention that these Complaints under Section 138 of N.I. Act pertain to the year 1999, despite which they have remained pending for service. The learned M.M. shall consider this aspect and deal with it expeditiously, and ensure that the service upon Respondents is completed within reasonable time.

16. With aforesaid directions, these Appeals and pending Application(s), if any, are disposed of.

NEENA BANSAL KRISHNA, J

APRIL 28, 2025

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