



2025:DHC:5414



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

Date of Decision: 08.07.2025

+ CRL.L.P. 398/2024

RAJVEER SINGH

.....Petitioner

Through: Mr. Mazali Mohdzulfikar, Adv.

Versus

THE STATE GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Satish Kumar, APP for
State.

Mr. Jitendra Kumar Singh and
Mr. Manish Kumar, Adv.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

CRL.L.P. 398/2024

1. By way of the present criminal leave to appeal under Section 378(4) of the Code of Criminal Procedure, 1973, (CrPC), the petitioner seeks to assail the order dated 08.06.2023 passed by the learned Presiding Officer, Special Court, South District, New Delhi in CT. Case No. 13807/2018 titled as "***Rajveer Singh vs. Moin Raza Idrisi & Anr.***", whereby the learned Presiding Officer dismissed the complaint in default/non-prosecution. The petitioner further



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challenges the order dated 14.10.2023 in CR No. 424/2023 passed by the learned Principal District and Sessions Judge, Saket Courts, New Delhi, whereby the Revision Petition was dismissed as the same was not maintainable.

2. The learned counsel for the petitioner submits that there exist substantial and fair chances of the applicant/petitioner succeeding in the accompanying appeal. It is further submitted that the grounds raised in the appeal are *prima facie* arguable and merit due consideration by this Court.

3. For the reasons stated therein and the grounds raised by the petitioner, the criminal leave to appeal is allowed.

CRL.A...../2025(to be numbered)

4. By way of the present appeal the appellant seeks to assail the above said orders and with the consent of parties, arguments heard in appeal.

5. The brief facts of the case are that the complainant/appellant had advanced a total sum of Rs. 4,00,000/- to the accused as Rs. 1,00,000/- towards arrangement of building material on two separate occasions, and Rs. 2,00,000/- as a friendly loan. On 16.07.2018, the accused issued cheque bearing No. 079075 dated 16.07.2018 for an amount of Rs. 4,00,000/-, drawn on Bank of India, Avenue 21 Branch, YWA Hotel Building, Saket, New Delhi. However, the said cheque, when presented before the bank, was returned dishonoured on 20.07.2018. The complainant/appellant, on 05.08.2018, sent a legal notice to the accused.



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6. On 21.08.2018, the complainant/appellant instituted a complaint under Section 138 of the Negotiable Instruments Act, 1881 (NI Act) against the respondent/accused. The matter remained pending adjudication and was listed for further proceedings before the learned Special Court.

7. During the course of trial, on 08.06.2023, the complainant failed to appear before the learned Special Court. On the said date, i.e., 08.06.2023, neither the complainant nor the accused appeared before the Court. Consequently, the learned Special Court dismissed the complaint on account of non-prosecution.

8. Upon coming to know about the dismissal of the complaint by the learned Special Court, the appellant preferred a Revision Petition bearing CR No. 424/2023. The said petition was also dismissed by the learned Principal District and Sessions Judge, South, Saket Courts, New Delhi, *vide* order dated 14.10.2023, observing that the dismissal has the same effect as that of an acquittal, however, no specific order of acquittal was passed by the learned Special Judge. Hence, the only remedy available to the revisionist/complainant is to prefer an appeal under Section 378(4) CrPC. Thus, leading to the filing of the present petition.

9. The learned counsel for the appellant submits that the learned Special Court failed to appreciate the fact that the complainant had regularly appeared before the learned Special Court on various occasions. However, on the date in question, the complainant could not appear due to a *bona fide* error in noting the date of hearing. It is



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further submitted that neither the complainant nor the accused appeared before the Court on the said date, which clearly indicates that there was a genuine confusion regarding the date of hearing. Therefore, both the parties could not appear before the learned Special Court.

10. To refute the submissions, the learned counsel for the respondent submits that from the proceedings of the said case, it is apparent that the appellant is not interested in pursuing his complaint under Section 138 of the NI Act against the respondent. On a previous occasion as well, the said complaint case was dismissed in default for non-appearance of the appellant *vide* order dated 11.02.2020.

11. He submits that the matter is pending at the stage of the complainant's evidence for the last seven years, and despite repeated opportunities being granted, the complainant has failed to take steps to complete his evidence. At the stage of the complainant's evidence, the appellant failed to appear on 14.02.2023 and 24.04.2023, and his evidence was deferred, which reflects the non-serious attitude of the appellant.

12. Furthermore, he submits, the appellant approached the wrong forum by way of a Revision Petition, to impugn the order dated 08.06.2023, which was rightly dismissed by the learned Principal District and Sessions Judge as being non-maintainable. Therefore, keeping in view the past conduct and the lackadaisical attitude of the appellant, he prays that the present appeal be dismissed.



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13. Having heard the learned counsel for the parties and perused the record, it emerges that on 21.08.2018, the appellant filed a complaint under Section 138 of the NI Act against the respondent. Furthermore, the matter was dismissed in default due to non appearance of the appellant on a previous occasion as well. However, the same was subsequently revived.

14. Needless to say, it is incumbent upon a litigant to pursue his matter diligently and responsibly which encompasses active participation in the case and to follow Court's orders. Non-compliance of such orders could result in delays and dismissal of the case.

15. Nonetheless, given the fact that the complaint has been pending since 2018 and was dismissed on the ground of non-appearance of the appellant on 08.06.2023, which the appellant explains was due to an error in noting the next date of hearing, resulting in his inability to appear. On the said date of the hearing the respondent also did not appear. Thus, in the interest of justice, the appeal is allowed. The case is restored to the stage as it was on 08.06.2023 before the learned Special Judge, subject to the appellant paying costs of ₹10,000/- to the respondent before the learned Special Court.

16. However, it is made clear that the appellant shall produce all his witnesses on the next date of hearing and learned Special Court shall make an endeavour to conclude the complainant's evidence on the date, as may be fixed by the learned Special Court. In case, if due to paucity of time on the said date of hearing, if all the witnesses may not



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be examined, the learned Special Judge may grant one more opportunity for concluding the complainant's evidence.

JULY 8, 2025/sk

SHALINDER KAUR, J

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