


2
1

Sr. No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ CRIMA 97/2003</p> <p>M/S ADARSH ENTERPREISES Petitioner Through Mr.Sanjay Gupta, Advocate</p> <p>versus</p> <p>M/S KAMAL ENTERPRISES & ORS. Respondents Through</p> <p>CORAM: HON'BLE MR. JUSTICE R.S. SODHI</p> <p><u>ORDER</u> 08.12.2003</p> <p>%</p> <p>Leave to appeal is granted. Crl.Misc.Application 97/2003 is allowed and disposed of.</p> <p><u>Crl.A. 809 /2003 :</u></p> <p>Let this appeal be numbered.</p> <p>Counsel for the appellant submits that on 5th April, 2003 , complainant was present along with the counsel at 11.30 a.m. in the Court, however, prior thereto the matter was called out and dismissed in default. He submits that the order sheet</p>

Signature Not Verified
Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared the
digital data is as per the physical file

Sr. No.	Date	Orders
		<p data-bbox="999 342 1066 387" style="text-align: center;">-2-</p> <p data-bbox="428 508 1554 1294">shows that neither the complainant nor the accused was present though the summons were issued to the accused vide order dated 24th January, 2003. Immediately an application for inspection was moved when it was found out that the complaint has been dismissed in default. Aggrieved thereof a revision was moved under Section 397/399 of the Code of Criminal Procedure against the order dated 24th January, 2003, which was dismissed vide order dated 5th April, 2003 on the ground that it was not maintainable. Thereafter, the complainant has filed this petition under Section 378 of the Code of Criminal Procedure.</p> <p data-bbox="428 1327 1554 1625">Counsel submits that although he was in court along with the complainant yet in the early hours the matter was dismissed in default. He submits that delay in reaching the court was due to traffic jam and that the same was beyond his control.</p> <p data-bbox="428 1647 1554 2023">Heard counsel for the appellant. In view of the facts that the accused has not been summoned nor did he appear on 5th April, 2003, there is no need to issue notice to him in this appeal. Consequently, after hearing counsel for the appellant, I am satisfied that appellant's absence on 5th April, 2003 before</p>

4

Sr. No.	Date	Orders
		<p data-bbox="999 342 1066 387" style="text-align: center;">-3-</p> <p data-bbox="420 508 1545 729">the trial court was inadvertent and beyond control. I therefore, in the interest of justice, set aside the order dated 5th April, 2003 and restore the complaint to its original file and number.</p> <p data-bbox="420 752 1545 884">With this Crl. Appeal <u>809</u>/2003 is allowed and disposed of.</p> <p data-bbox="520 917 638 973">Dasti.</p> <div data-bbox="1192 884 1562 1139"> R.S. SODHI, J</div> <p data-bbox="520 1128 924 1227">DECEMBER 08, 2003 dr</p>