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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.L.P. 315/2010

SUSHMA DEVI

..... Petitioner

Through: Mr. Mukesh Gupta, Advocate.

versus

RAKESH KUMAR

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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31.05.2011

Crl. M.A. No. 15468/2010 (Delay)

This is an application for condonation of delay in filing the petition for leave to appeal.

For the reasons stated in the application the same is allowed. Delay of 47 days in filing the petition for leave to appeal is condoned.

Application stands disposed of.

Crl. L.P. 315/2010

Notice issued to the Respondent was not accepted as per the office report. Learned counsel for the Petitioner states that he inadvertently noted the date of 3rd July, 2010 in his diary instead of 3rd May, 2010 and thus, the

CRL.L.P. 315/2010

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Appellant or his counsel could not appear on the said date.

For the reasons stated in the petition the leave to appeal is granted.

Petition stands disposed of.

Crl. A. No. 737 /2011 (To be numbered)

Registry to number the Appeal.

The Petitioner had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881. During the pendency of the complaint the Complainant was regularly appearing before the Court and on 25th February, 2010 counsel for the Appellant / Complainant was present and an application for seeking personal exemption of the Appellant was filed; the same was allowed by the learned Trial Judge only for that day and bailable warrants against the accused were issued. The matter was then fixed for 3rd May, 2011. Inadvertently the learned counsel noted the date as 3rd July, 2010 and thus on 3rd May, 2010 when the case was taken up, neither the Complainant nor his counsel was present. The Court after giving the pass-over at 2:30 p.m. dismissed the complaint in default. On a perusal of the record, the non-appearance of the Appellant and his counsel appears to be bona fide, because of noting the wrong date.

The appeal is allowed. The order dated 3rd May, 2010 dismissing the Complaint Case No. 1645-B/2008 is set aside. The complaint is restored to its original position. The parties will appear before the learned trial Court on 8th July, 2011.

Appeal stands disposed of. Order dasti.


MUKTA GUPTA, J.

MAY 31, 2011
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