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Kaushaliya Bhambhani vs.state and Anr

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SooperKanoon Citation : sooperkanoon.com/1210832

Court : Delhi

Decided On : Nov-24-2017

Appellant : Kaushaliya Bhambhani

Respondent : State and Anr

Judgement :

$~ * IN THE HIGH COURT OF DELHI AT NEW DELHI Order reserved on 20th November, 2017 Order pronounced on 24th November, 2017 + CRL.REV.P. 631/2015 KAUSHALIYA BHAMBHANI .....

... Petitioner
Through: Mr. Vishwendra Verma and Ms. Shivali, versus Advocates. STATE & ANR .....

... RESPONDENTS
Through: Mr. Mukesh Kumar, APP for the State. Mr. Manish Makkar, Advocate for R-2. CORAM: HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL Crl. M. A. No.16954/2017 (Condonation of Delay) This is an application under Section 5 of the Limitation Act read with Section 482 Cr.PC seeking condonation of 174 delay in filing the application. Heard. For the reasons stated in the application, the delay in filing the application is condoned. Application stands disposed of. Crl. M. A. No.16953/2017 (Restoration) The present application has been filed by the petitioner under Section 482 Cr.PC for restoration of the Criminal Revision Petition No.631/2015 which was dismissed in default on 18.04.2017. CRL.REV.P.

631/2015 Page 1 of 4 Learned counsel for petitioner submits that the respondent No.2/ Simmi Kathpal had entered into an agreement dated 02.05.2016 with the petitioner and assured him that she would withdraw the complaint filed by her vice-versa the property bearing No.CC-16-B, Shalimar Bagh, Delhi-110088 shall vest with the respondent No.2 and she shall pay Rs.88,00,000/- and when the said property got registered in her name after receiving the entire money, she would maintain the petitioner during her lifetime but after the aforesaid agreement, she resiled from the said agreement after the suit filed by the petitioner was got withdrawn. Learned counsel further submits that though the compromise was arrived, the same has not been complied with. Learned counsel for the respondent No.2 has no objection if the application for restoration of the present petition is allowed. Heard. Keeping in view of the aforesaid submissions, the application is allowed and Criminal Revision Petition No.631/2015 is restored to its original number and stage. Crl. M. A. 18471/2017 (for disposal of suspension of sentence) The petitioner was produced before the concerned Trial Court on 25.10.2017 on execution of NBWs issued against him. The petitioner herein was sent to judicial custody vide order dated 25.10.2017, which reads as under : xxxxx The convict had also filed revision against the order dated 16.09.2015 of Ld. Sessions Court in the Honble High Court of Delhi. The revision petition a was dismissed in default by Honble High Court of Delhi vide order dated 15.04.2017. CRL.REV.P. 631/2015 Page 2 of 4 a joint application 25.07.2017, thereafter, on 05.07.2017, Ld. Counsel for the complainant apprised the court that the convict has not paid the compensation amount. On the said date, the court issued NBWs against the convict. On for compounding of offence was moved on behalf of both the parties. Convict undertook to pay the compensation amount of Rs.35 Lakh on or before 25.09.2017. Statement of both teh complainant and the convict was recorded separately. However, on 25.09.2017, the complainant apprised the Court that the convict has not paid the compensation amount. The court was constrained to issue NBWs against convict for 14.10.2017 as no one had appeared on her behalf. On 14.10.2017, learned counsel for the convict had apprised the Court that he had filed an application for restoration of petition in the Honble High Court of Delhi and it was listed for hearing on 16.10.2017. In view of submissions made by Ld. Counsel for the convict, the court had granted exemption to the convict and listed

the case for 17.10.2017. On 17.10.2017, no one had appeared on behalf of convict and the court again issued NBWs against her. It is also apprised to the Court that the restoration application filed by Ld. Counsel for the convict is listed for hearing tomorrow before Honble High Court of Delhi. On being asked, Ld. Counsel for the convict states that as on date, there is no stay on the present proceedings. Keeping in view conduct of the convict and the fact that she has not paid the compensation amount till date despite several opportunities being given to her, the convict be sent to judicial custody till 27.10.2017 and be produced before the Court on 27.10.2017. CRL.REV.P. 631/2015 Page 3 of 4 The petitioner was sent to judicial custody for not complying with the order passed by the Trial Court. Learned counsel for the petitioner submits that the petitioner is ready to deposit the entire amount of Rs.35,00,000/- in this Court in the form of FDR. Heard. Keeping in view the facts and circumstances of the present case, the sentence is suspended subject to his : i) depositing a sum of Rs.35,00,000/- (Rupees Thirty Five Lac Only) with the Registry of this Court within two weeks without prejudice to the rights of both the parties; ii) furnishing his bail bond in the sum of Rs.25,000/- with one surety of like amount along with a copy of receipt of Rs.35,00,000/-, before the Court concerned; iii) that petitioner shall not leave the jurisdiction of NCT of Delhi without prior permission of the Court. With above directions, the present application is disposed of. Date already fixed i.e. 17.01.2018 stands cancelled. Copy of the order be given dasti under the signatures of Court Master. Crl. Rev. P. 631/2015 Admit. List in due course as per its on turn. NOVEMBER24h, 2017 / rd/gr SANGITA DHINGRA SEHGAL, J CRL.REV.P. 631/2015 Page 4 of 4

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