

Continental Papers Ltd. Vs. Darshan Print Pack (P) Ltd.

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Court : Delhi

Decided On : Nov-28-2002

Reported in : 2003CriLJ1410; 2003(66)DRJ209

Judge : J.D. Kapoor, J.

Appeal No. : Crl. R. 982/2002

Appellant : Continental Papers Ltd.

Respondent : Darshan Print Pack (P) Ltd.

Advocate for Def. : Nemo

Advocate for Pet/Ap. : Sudarshan Joon, Adv

Disposition : Petition allowed

Judgement :

J.D. Kapoor, J.

1. Criminal complaint of the petitioner under Section 138 of the Negotiable Instruments Act was dismissed in default at 10.30 A.M. vide order dated 2.8.2002. Petitioner is a big company and is being represented in cases filed by it through its various attorneys. Mr. K.B. Singh, Attorney who was appearing on behalf of the complainant had resigned prior to the dismissal of the complaint.

2. The court hours for the Sessions courts and courts of Metropolitan Magistrate are from 10 A.M. to 4 P.M. Complaint was dismissed at 10.30 A.M. which are early hours of the day. The High Court has been issuing instructions from time to time to the subordinate courts that the cases should not be dismissed in default in the early hours of the day. Dismissal of a case in default causes immense hardship to the party and to get it restored is not an easy process. That is why courts have been impressed upon to wait for the parties till late hours before the case is dismissed in default due to non-appearance of the party or his counsel.

3. During the last few days, this court has dealt with large number of cases where the cases filed by private parties were dismissed in default in very early hours of the day like the one in question.

4. Gone are the days when one used to start 15 minutes or half an hour from the house for reaching the court or destination. We are living in a city which has chaotic traffic and nightmarish jams and snarling movement of vehicles. Almost every day newspapers are teemed with chaotic traffic conditions in some or the other part of the city. Traffic indiscipline and the lack of control by the authorities over the movement of vehicles in orderly manner is the order of the day. One is not sure when he will reach his destination and when will he be caught by surprise on his way to have long and winding diversions.

5. The courts cannot be oblivious of these ground realities and therefore before packing up the case of a party summarily due to non-appearance of a party or his counsel, court is expected to wait till late hours.

6. The petition is allowed. The impugned order is set aside. The complaint shall stand restored to its original number. The petitioner shall appear before the learned trial court on 9th December, 2002.

Copy of the order be circulated amongst all the Judicial Officers.

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