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

+ CRL.REV.P. 690/2022

LUXOR WRITING INSTRUMENTS PVT. LTD. Petitioner

Through: Ms. Mahima Dayani, Advocate.

versus

MR JOYMON

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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06.04.2023

CRL.M.A. No. 21137/2022 (seeking condonation of 05 days delay in re-filing)

By way of the present application under section 482 of the Code of Criminal Procedure 1973, ('Cr.P.C.') the petitioner seeks condonation of 05 days' delay in re-filing the petition.

2. For the reasons stated in the application, which is duly supported by affidavit, the same is allowed.
3. The delay in re-filing is condoned.
4. The application is disposed-of.

CRL.M.A. 21138/2022 (seeking condonation of 24 months in re-filing)

5. By way of the present application under section 5 of the Limitation Act, 1963 the petitioner seeks condonation of 24 months' delay in re-filing the petition.



6. Ms. Mahima Dayani, learned counsel appearing for the petitioner submits, that the criminal revision petition was first filed on 21.01.2020 whereafter objections were cleared as and when raised by the Registry; and the petition was last re-filed on 11.03.2020; whereafter lockdown was imposed due to the then prevailing pandemic; and since the petition had been filed physically, it lay with the Registry without being returned to counsel.
7. Counsel submits that upon re-opening of the courts, the petition was again re-filed on 09.07.2022. It is submitted however, that a substantial period of the apparent delay in re-filing stands covered by the directions of the Supreme Court contained in order dated 10.01.2022 made in *Suo Motu* W.P.(C) No. 3/2020, whereby the Supreme Court held that the period between 15.03.2020 and 28.02.2022 shall stand excluded for the purpose of calculating limitation. By the said order, the Supreme Court also granted a further period of 90 days beginning 01.03.2022 to file any petition.
8. Since the petition was filed on 09.07.2022, it is submitted that the actual delay in re-filing the petition is only about 09 days, taking into account the period during which the High Court was in recess.
9. Be that as it may, considering that there is delay only in re-filing the revision petition, it is not considered necessary to issue notice on this application.
10. The application is accordingly allowed.
11. The delay in re-filing is condoned.
12. CRL.REV.P. No. 690/2022 is taken on Board.



CRL.REV.P. 690/2022

13. By way of the present criminal revision petition under sections 397/401 Cr.P.C. the petitioner seeks setting-aside of judgment dated 22.10.2019 made by the learned ASJ in criminal appeal bearing No.CA/40/19, whereby the ASJ was pleased to set-aside judgment dated 20.01.2018 and sentencing order dated 22.01.2018 made by the learned Metropolitan Magistrate in criminal complaint No. 587/2016 , by which the learned Magistrate had convicted the respondent/accused for the offence under section 138 of the Negotiable Instruments Act, 1881 and had sentenced him to simple imprisonment for 01 year along with fine of Rs.9,36,012/-, of which Rs.8 lacs was to be paid to the petitioner as compensation.
14. The cheque in question was for the sum of Rs.4,81,506/-.
15. Ms. Dayani submits that the learned Magistrate had correctly convicted the respondent on the basis as reflected *inter-alia* in paras 20, 21 and 22 of judgment dated 20.10.2018, disbelieving the principal defence raised by the respondent viz. that the subject cheque was given merely as 'security' under a distributorship agreement that the respondent had signed with the petitioner.
16. Counsel points-out however, that the learned ASJ has reversed the judgment of conviction on an erroneous appreciation of the evidence on record, which order is accordingly amenable to the revisional jurisdiction of this court.
17. Upon a *prima-facie* view of the matter, issue notice.
18. Upon the petitioner taking requisite steps, let notice be sent to the respondent by all permissible modes, returnable for the next date.



19. Let the notice indicate that reply to the petition be filed within 06 weeks of service; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.
20. Re-notify on 29th August 2023.

ANUP JAIRAM BHAMBHANI, J

APRIL 6, 2023/uj