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

+ **CRL.M.C. 8764/2024**

NILESHBHAI VINUBHAI PATEL

.....Petitioner

Through: Mr. Irfan Firdous, Mr. Monish Ali
Khan, Ms. Aleena, Mr. Mahadev
Chaudhary & Mr. Aashcharya
Rathee, Advocates

versus

ESCORTS KUBOTA LIMITED & ANR.

.....Respondents

Through: Mr Puneet Bajaj, Advocate

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **06.12.2024**

CRL.M.A. 36858/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.A. 36857/2024 (for early hearing)

1. This application has been filed by petitioner seeking early hearing of the petition which is otherwise listed for 31st January 2025.
2. Counsel for petitioner states that in light of the averments made in the petition, which are synopsised in order of this Court dated 8th November 2024, continuation of proceedings before the Trial Court may cause prejudice to the petitioner.
3. A short reply has already been filed on behalf of the respondent.
4. Counsel for respondent, however, has taken serious objection considering that compliance of Section 32(3), Partnership Act, 1923 has not



been made by petitioner, as public notice of his retirement was not issued. He further seeks to rely on decision in ***Riya Bawri Etc. v. Mark Alexander Davidson and Ors.***, AIR 2023 SC 4044, where the Supreme Court allowed the appeal against dismissal of the High Court's decision quashing the summoning order based on a retired partner/accused. The Supreme Court held that the aspect of retirement could not be taken at face value and is to be clinching evidence to quash a complaint.

5. Counsel for petitioner, however, states that records placed by them, as part of the petition and noted in this Court's order dated 8th November 2024, should be sufficient for the purposes of 'unimpeachable evidence'.
6. These aspects will be considered on the next date of hearing.
7. In the meantime, the petitioner is exempted from personal/physical appearance before the Trial Court, till the next date of hearing before this Court.
8. This application stands disposed of.

CRL.M.C. 8764/2024

1. List on 31st January 2025, the date already fixed.
2. Order be uploaded on the website of this Court.

ANISH DAYAL, J

DECEMBER 6, 2024/sm/sc