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

Date of Decision: February 04, 2015

+ CRL.M.C. 3985/2013 & Crl. M.A.Nos.8661/2014 & 14262/2013
& 14268/2013

BRIJESH KR. GUPTA

..... Petitioner

Through: Ms. Geeta Luthra, Senior Advocate
with Ms. Malini & Ms. Naina
Dubey, Advocates with petitioner
in person

Versus

SHIKHA GUPTA & ANR.

..... Respondents

Through: Mr. Maninder Singh, Advocate for
respondent No.1
Mr. Vinod Diwakar, Additional
Public Prosecutor for Respondent
no. 2/State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(ORAL)

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Petitioner's statutory bail application under Section 29 of the *Protection of Women from Domestic Violence Act, 2005* stands dismissed vide order of 14th August, 2013 due to default of petitioner in depositing the arrears of maintenance as granted by the trial court.

At the hearing, learned senior counsel for petitioner had placed reliance upon Apex Court's decision in *Grand Vasant Residents Welfare Association & anr. Vs. DDA & anr.* (2005) 12 SCC 281 and *G.L. Vijian Vs. K. Shankar* (2006) 13 SCC 136 to contend that a condition precedent to the hearing of the statutory appeal cannot be sustained.

Learned counsel for respondent had fairly conceded that statutory appeal cannot be dismissed for not complying with the conditions imposed while entertaining the appeal but the Appellate Court is well within its powers to impose conditions while granting interim order and if the interim orders are not complied, then the party in whose favour impugned order is passed, is at liberty to get it executed.

Upon hearing and on perusal of the impugned order, material on record and the decisions cited, I find that the Appellate Court can grant conditional stay but in view of ratio of the Apex Court's decisions in *Grand Vasant & G.L. Vijian (supra)*, the statutory appeal cannot be dismissed.

In view of the aforesaid, impugned order of 14th August, 2013 dismissing petitioner's appeal for non-compliance of order of 18th December, 2012 is rendered unsustainable and is hereby quashed. Appellate Court is directed to hear the appeal on merits with expedition. Parties are directed to appear before the Appellate Court on 12th February, 2015 for proceeding in accordance with the law.

This petition and applications are disposed of with aforesaid observations.

Copy of this order be sent to the concerned Appellate Court forthwith.

Dasti.

(SUNIL GAUR)
JUDGE

FEBRUARY 04, 2015

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