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

+ **CRL.REV.P. 1000/2018**

NAVEEN KUMAR

..... Petitioner

Through: Mr. Udghosh Thakran,
Advocate

versus

SMT JYOTI

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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19.11.2018

CRL.M.A.47484/2018

Allowed, subject to all just exceptions. The application is disposed of.

CRL.M.A.47482/2018 & Crl. Rev. P.1000/2018

1. This is an application under Section 5 of the Limitation Act, 1963, read with Section 482 of the Code of Criminal Procedure, 1973, for condonation of delay of 104 days in filing the criminal revision petition.

2. It is argued that after passing of the order dated 12.4.2018 by the Judge, Family Court, Saket, New Delhi, the petitioner immediately asked his counsel to challenge the order and file the revision petition. Learned counsel assured the petitioner that

he will file the revision petition soon. Further, after a few days, when the petitioner asked his counsel about the filing of the revision petition, the learned counsel said that he has filed the revision petition and it will come up for hearing soon. However, after getting no information from learned counsel about the revision petition, the petitioner contacted him. The learned counsel replied that the revision petition is under objection and the same will be removed soon and the matter will come up for hearing. The petitioner time and again asked his counsel about the status of the revision petition and every time he was assured by his counsel that the revision petition will soon come up for hearing. However, when the petitioner lastly asked his counsel about the status of revision petition and asked for the diary number, his counsel said that he could not file the revision petition. Hence, the petitioner had to change his counsel.

3. Learned counsel for the petitioner submitted that the revision petition could not be filed within the period of limitation due to the aforesaid reasons. Learned counsel for the petitioner further submitted that the delay caused in filing the revision petition is neither deliberate nor intentional and prays that the delay in filing the revision petition may be condoned.

4. A bare perusal of the application clearly demonstrates that the contentions raised in the application regarding the queries about the status of the revision petition by the petitioner

from his earlier counsel and reply thereto by the earlier counsel are vague. Neither any date nor any month is mentioned when the petitioner asked the previous learned counsel about the filing of the revision petition. Only a vague plea has been taken to cover-up the delay. No complaint has been made to the Bar Council of Delhi or Bar Council of India against the advocate. There is nothing on record which may specifically satisfy or show or prove that the delay in any manner was neither deliberate nor unintentional. The plea of change of counsel for the purpose of condoning the delay and to put blame upon them is now being quite frequently taken up by the litigants, such a plea cannot be allowed. I do not find any sufficient cause or reason for condoning the delay. Accordingly, the application is dismissed.

5. I have also gone through the impugned order.

6. Learned counsel for the petitioner submitted that the petitioner (respondent before the Trial Court) is earning about Rs.10,000/- per month, but sometime he earns less also. There is no dispute that he is working and it is his duty to maintain his wife. The income of the petitioner, as stated, is Rs.10,000/- per month. Sometimes, it is also stated that the income may increase and sometimes it may decrease, but the Family Court has only fixed Rs.3,500/- as *ad interim* maintenance to be paid by the petitioner (respondent before the Trial Court) to the respondent (petitioner before the Trial Court), which is quite

reasonable, taking into consideration the law in this regard. Hence, I do not find any merit in the revision petition filed by the petitioner against the order dated 12.4.12018 passed by the Judge, Family Court, Saket, New Delhi in Maintenance Petition No.197/2017

7. Learned counsel for the petitioner has further submitted that he has already moved an application before the learned Trial Court for modification of the order dated 12.4.2018, which is pending adjudication.

8. Hence, in these circumstances, the revision petition is dismissed. However, it is clarified that this Court has not expressed any opinion on the merits of the main case or the application, if any, pending before the Trial Court. Crl.M.A.47483/2018 is also dismissed.

CHANDER SHEKHAR, J

NOVEMBER 19, 2018

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