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

+ CRL.REV.P. 853/2023 & CRL.M.A. 21945/2023 (*for condonation of delay*)

NAINA & ANR.

..... Petitioners

Through: Mr. Prem Chand
Ganganiya, Adv. (through
VC)

versus

AMIT KUMAR SAHRAWAT

..... Respondent

Through: Mr. Lohit Ganguly & Ms.
Reeta Puniya, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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08.05.2024

1. The present petition is filed under Section 397 and 401 read with Section 482 of the Code of Criminal Procedure, 1973, seeking restoration of the petition, that is, MT No. 208/2019, which was dismissed in default and for non-prosecution by the learned Family Court by order dated 10.10.2022 (hereafter '**impugned order**').

2. The learned counsel for the petitioners submits that the petitioners were diligently pursuing the matter. He submits that the petitioners and their counsel had not appeared before the learned Family Court on 10.10.2022 due to some unavoidable circumstances.

3. Mr. Lohit Ganguly, learned counsel for the respondent fairly does not oppose the restoration of the petition before the learned Family Court.

4. It is noted that the present petition was filed after a delay of 198 days, however, considering the fact that MT No. 208/2019



relates to a matrimonial dispute where the petitioners are seeking maintenance, this Court considers it apposite to condone the delay.

5. The petition is allowed and the impugned order is set aside. The petition, MT No. 208/2019, is directed to be restored to its original position. The matter is directed to be listed before the learned Family Court on 27.05.2024. The learned Family Court is requested to fix an appropriate date after hearing the parties.

6. It is clarified that in case the petitioners succeed in getting an order of maintenance in their favour, they will not be entitled to get maintenance for the time that they had taken to approach this Court, that is, 198 days.

AMIT MAHAJAN, J

MAY 8, 2024
“SS”