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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 1239/2019, CRL.M.A. 41249/2019, CRL.M.A.
41250/2019, CRL.M.A. 16179/2024 & CRL.M.A. 16180/2024
PAWAN KUMAR ARYAPetitioner

Through: Mr. Lalit Ajmani, Adv. with
petitioner Mr. Pawan Arya in-person.
versus

SUNITA ARYA & ORS.Respondents
Through: Ms. Mallika Parmar, Adv. (DHCLSC)
Mr. Manish Tanwar, Mr. Abhinav
Sharma and Mr. Abhishek
Chaudhary, Advs. for R-2 & 3.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
17.09.2024

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CRL.REV.P. 1239/2019 alongwith CRL.M.A. 41250/2019

1. This application has been filed under Section 5 of the Limitation Act for condonation of delay in filing the petition. The only reason provided in the petition as well as the petitioner to file it within stipulated period because of taking care of the father who was struggling due to old age. No details have been given. No dates have been provided. No medical records have been provided as well. The delay is of 281 days and condonation of delay is sought.
2. Further, it is noted that pursuant to the application under DV Act filed by the respondent in proceedings before the MM, a direction had been passed on 11th March, 2015 that the petitioner was to pay an amount of Rs.5,000/- for the welfare of the child for which the cheque given previously



had bounced. The date was fixed for 24th March, 2015. The petitioner did not appear on 24th March, 2015 as well as the subsequent date on 10th April, 2015 and was proceeded *ex-parte*. He pleaded to pay the amount of Rs.5,000/- on 12th May, 2015 but then did not appear on the next 7 or 8 dates as also on 02nd February, 2016 when *ex-parte* final arguments were heard and the decision was given by the Trial Court where maintenance of Rs.8,000/- per month was directed.

3. An appeal was filed by the respondent and the petitioner was duly served but they failed to appear in proceedings on 13th August, 2018 and 18th October, 2018. The Appellate Court, therefore, enhanced the maintenance amount from Rs.8,000/- to Rs.15,000/-. Certain amounts were paid during the proceedings; however, the directions were still not complied with.

4. This condonation application is, therefore, not merited.

5. Counsel for the petitioner, however, points out that the son of the respondent attained the age of majority in January 2017. Six years have been passed since the age of majority and the petitioner's son is reportedly doing post-graduation. Counsel for the respondent states that the said is subject to verification.

6. Counsel for the petitioner states that they have already filed for rectification of the said order in this regard before the Execution Court. The said plea may be considered on its merits, subject to the response filed by the counsel for the respondent.

7. In the opinion of this Court, since Rs.15,000/- awarded as maintenance to the wife and the child without any segregation, it would be appropriate to consider the said objections in that context.

8. Counsel for the respondent states that now Rs.16 Lacs is pending by



arrears for maintenance.

9. Counsel for the petitioner states that the said calculation may be incorrect. However, in proceedings before the Execution Court, the petitioner will pay at least 50% of the arrears which may be assessed before the Execution Court on or before 01st December, 2024.

10. Petition is, therefore, disposed with the aforesaid directions. Pending applications, if any, are also disposed of as infructuous.

11. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 17, 2024/MK