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

+ CRL.A. 897/2015 & CRL. M.A. 12034/2015 & CRL. M.A. 20071/2016

ANU AGGARWALAppellant

Through: Ms. Mishika, Advocate

versus

MOHIT AGGARWAL & ANRRespondent

Through: Mr. Virendra Singh and Mr. Ajay Anand, Advocates for R-1 & R-2.

Mr. Naval Kishore Jha, APP for the State with SI Vipin Kumar, PS Parshant Vihar, Delhi.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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18.12.2024

1. The learned counsel appearing on behalf of the appellant at the outset submits that the appellant had also filed a separate petition against the respondent no.1 seeking maintenance under Section 25 of the Hindu Marriage Act, 1955 in which order of maintenance has been passed in favour of the petitioner.

2. She further submits that to execute the aforesaid order of maintenance, the appellant has also filed an Execution Petition 15/2019, which is pending before Family Court, Rohini. In the said execution petition the respondent no.1 had been avoiding service. She submits that in the said execution petition, the appellant has been given liberty by the learned Executing court to serve the respondent no.1 with notice during the course of hearing of the present appeal, with the permission of this court.



The permission is granted to the appellant to serve the learned counsel for the respondent no.1 with notice in the said execution petition.

3. The learned counsel appearing on behalf of the respondent no.1, on instructions, accepts notice in the aforesaid execution petition.

CRL.A. 897/2015

4. The present appeal has been preferred by the appellant/victim against the judgment dated 23.04.2015 passed by the learned Metropolitan Magistrate, Mahilla Court, Rohini, Delhi whereby the respondent nos. 1 & 2 were acquitted of the offences punishable under Sections 498-A/406 IPC registered *vide* FIR No. 417/2008 at Police Station Prashant Vihar, Delhi.

5. An objection has been raised by the learned counsel appearing on behalf of the respondent no. 1 that as the present appeal is preferred against an order of acquittal involving cognizable offences, therefore, the same is maintainable before the learned court of Sessions.

6. Learned counsel appearing on behalf of the appellant, after some arguments, seeks to withdraw the present appeal with liberty to file the same before the competent court of Sessions, Delhi. She, however, contends that the present appeal has been pending before this Court since 2015 and the period spent before this Court may be excluded for the purpose of limitation in accordance with the principles akin to Section 14 of the Limitation Act, 1963.

7. To this, learned counsel for the respondent no.1 on instructions, submits that no objection as regards limitation will be raised by the respondents, if an appeal is preferred by the appellant before the court of Sessions. The statement is taken on record.

8. Learned counsel appearing for the appellant has also expressed



an apprehension that as the respondent nos. 1 is are not appearing before the executing court, he might avoid service in the appeal, if the same is preferred by the appellant by the court of Sessions.

9. To allay the said apprehension, learned counsel appearing for the respondent no. 1 submits that he is furnishing the latest and correct address of the respondent no.1, where he could be served, which reads as under:

Mr. Mohit Aggarwal S/o late Sh. R.P. Aggarwal
R/o 4501-Vermant Ave.
Los Angeles, CA-90037
e-mail: Aggarwalmohit783@gmail.com
Tel. No. 3236334049

10. Further, learned counsel appearing for the respondent nos. 1 and 2 submits that the respondent no. 2 has passed away. However, the death certificate of respondent no. 2 has not been placed on record.

11. Let an appropriate order be passed by the appellate court in this regard after verifying the factum of death of the respondent no. 2, in the event, appeal is preferred by the present appellant.

12. In view of the above, the appeal, as well as, pending applications, if any, is dismissed as withdrawn with liberty as aforesaid.

13. The appeal stands disposed of.

VIKAS MAHAJAN, J

DECEMBER 18, 2024

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