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

+ CRL.REV.P. 498/2019

RADHEY SHYAM Petitioner

Through: Mr.Pulkit Thareja, Adv.

versus

STATE & ANR Respondents

Through: Ms.Meenakshi Dahiya, APP.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **19.07.2019**

Crl.M.A.8954/2019 (exemption)

Exemption is allowed subject to all just exceptions.

Crl.M.A.8955/2019

1. The appellant has filed this application seeking condonation of delay of 28 days in filing the appeal. It is contended that the appellant was incarcerated and did not have sufficient means to engage a private counsel, on account of which, he could not engage a counsel to file an appeal in time and, accordingly, there was a delay of 28 days in filing the appeal.
2. Issue notice. Notice is accepted by the learned APP for the State.
3. Learned APP for the State submits that in view of the averments in the application and the arguments advanced, he does not

oppose the condonation of delay.

4. For the reasons stated in the application, the application is allowed. The delay in filing the appeal is condoned.

Crl.M.B.8956/2019

1. Petitioner impugns judgment dated 15.12.2018 whereby the appeal of the petitioner impugning order on conviction dated 10.08.2016 and order on sentence dated 15.09.2016 has been dismissed. Petitioner has been convicted of an offence under Section 498A IPC and sentenced to undergo two years SI and to pay fine of Rs.10,000/-.

2. Respondent No.2 has not been served. Learned counsel for the petitioner submits that since respondent No.2 is neither a necessary nor a proper party, he prays for deletion of respondent No.2 from the array of parties. He submits that Respondent No. 2 was not even a party in the appeal.

3. In view of the above, respondent No.2 is deleted from the array of parties. Amended memo of parties be filed within two days.

4. Learned counsel for the petitioner submits that the Trial Court has erred in not appreciating that there was no material against the petitioner and petitioner has been falsely implicated. Learned counsel further submits that the Appellate Court has committed an error in not appreciating that the allegations against the husband and family members were similar and on the same material the Appellate Court has found the version of the prosecution not believable in so far as the

family members are concerned.

5. Learned counsel further submits that petitioner has suffered nearly 7 months of incarceration. He further submits that petitioner has faced trial for over 21 years and was on bail during trial there is no allegation that he misused the liberty.

6. Without commenting on the merits of the case and keeping in view the facts and circumstances, on petitioner furnishing a bail bond in the sum of Rs.15,000/- with one surety of the like amount to the satisfaction of the Trial Court, the sentence of the petitioner shall remain suspended during the pendency of the present petition.

7. Application is accordingly disposed of in the above terms.

CRL.REV.P. 498/2019

List for consideration on 22.10.2019.

Digital copy of the Trial Court record as well as Appellate Court record be requisitioned through a special messenger.

Order *dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

JULY 19, 2019

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