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

+ CRL.REV.P. 1160/2024 & CRL.M.A. 28603/2024 (stay)

DR AVDHESH KUMARPetitioner

Through: Mr. Harsh Som & Mr. Rakesh U
Upadhyay, Advocates

versus

SMT PRERNARespondent

Through: None

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
23.09.2024

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CRL.M.A. 28602/2024 & CRL.M.A. 28604/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Both applications stand disposed of.

CRL.REV.P. 1160/2024 & CRL.M.A. 28811/2024 (delay)

1. This petition is filed for setting aside order dated 20th April 2024 passed by the Sessions Court in Crl.A.21/2023 whereby appeal preferred by the petitioner, under Section 29 DV Act, was dismissed on the basis of 6 months' delay.
2. Counsel for petitioner states that the *ex-parte* order was originally passed by the Metropolitan Magistrate ("MM") on 17th August 2022, i.e. just after Covid Pandemic got over and though counsel for appeared before the MM, but there were some restrictions during that time.
3. He further contends that ground taken in appeal relating to issue of shared household is not made out particularly since as per the DIR,



statement of complainant is that she moved out of the matrimonial home and continued to reside in her own house and then with her parents, and therefore never shared a household. He relies on Section 2(a), 2(f) and 2 (s) of the DV Act. He relies upon decision of the Supreme Court in **Satish Chandra Ahuja v. Sneha Ahuja** Civil Appeal No.2483/2020 (reference to para 63 of the judgment).

4. He further points out that Rs.25,000/- is continuously being paid as maintenance, as per a separate order, to the respondent and so far about Rs.25 lakhs has been paid.

5. On petitioner taking steps, notice of this petition as well as notice of delay application be issued to respondent through all permissible modes, returnable before this Court on the next date of hearing.

6. List on 9th January 2025.

7. Subject to petitioner depositing Rs. 1 lakh, before the Registrar General of this Court, within a week from today, operation of the impugned order shall remain stayed till the next date of hearing. The amount so deposited shall be kept in form of an interest-bearing FDR, initially for a period of one year, on an auto-renewal mode.

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

ANISH DAYAL, J

SEPTEMBER 23, 2024/sm