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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 2740/2024
GULSHAN KUMAR & ANR. Petitioners
Through: Counsel (appearance not given).
versus
NIDHI KASHYAP Respondent
Through:

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

% **05.04.2024**

CRL.M.A. 10431/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 2740/2024 & CRL.M.A. 10430/2024

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners (husband of the respondent and relatives) against order dated 05.03.2024 passed by learned ASJ-03, North-West, Rohini Courts, Delhi in CA No. 186/2023.
2. In brief, D.V. petition preferred on behalf of respondent/complainant/wife was dismissed in default by the learned Trial Court vide order dated 29.03.2023. An application preferred on behalf of the respondent for restoration of the same before the learned Trial Court was dismissed vide order dated 18.07.2023.
3. The aforesaid order passed by the learned MM was thereafter challenged in appeal on behalf of the respondent/wife.
4. Learned Appellate Court/ASJ vide impugned order dated 05.03.2024 observed that the absence of the respondent/wife has been explained and there were no sufficient grounds before the learned Trial Court to dismiss the



petition on the basis of non-appearance on a single date. Considering the facts and circumstances, learned Appellate Court directed to restore the D.V. petition, subject to payment of cost of Rs. 10,000/- by the respondent to appellants.

5. Learned counsel for the petitioners submits that non-appearance of the respondent before the learned Trial Court was intentional in order to harass the petitioners. Further, it is submitted that the respondent was contesting other litigations between the same parties and sufficient grounds have not been shown before the Appellate Court for restoration of the proceedings.

6. I have given considered thought to the contentions raised.

Protection of Women from Domestic Violence Act, 2005 is a measure of social justice applicable to each woman irrespective of religious affiliation or social background. The same was enacted to safeguard the rights of the victims of 'domestic violence' in 'domestic relationship'.

There is no blemish in the order passed by the learned Appellate Court and for the cogent reasons, learned ASJ was duly satisfied with the explanation extended for non-appearance of respondent/counsel. It may be impressed upon that procedure is the handmaid of justice and is to come to the aid of justice rather than defeating it. Considering the facts and circumstances of the case, no grounds for interference in the impugned order are made out, since sufficient grounds have been shown by the respondent for restoration of proceedings.

Petition is accordingly dismissed. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J

APRIL 5, 2024/akc