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

DECIDED ON : 19th NOVEMBER, 2015

+ **CRL.REV.P.158/2014 & CRL.M.A.No.4063/2014**

GULSHAN YADAV

..... Petitioner

Through : Mr.Rajan Chaudhary, Advocate.

VERSUS

SUSHMA YADAV & ORS.

..... Respondents

Through : Mr.Amit Chadda, Advocate.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Oral)

1. Instant revision petition has been preferred by the petitioner to impugn the legality and correctness of a judgment dated 07.12.2013 of learned Judge Family Courts, whereby in the proceedings under Sections 125 Cr.P.C. maintenance @ ₹4,500/- per month each was awarded to respondents from the date of filing of the petition. The revision petition is contested by the respondents.

2. I have heard the learned counsel for the parties and have examined the file. The petitioner has been directed to pay maintenance @ ₹9,000/- in all to his both children from the date of filing of the petition i.e. October 01, 2007. During the course of arguments, it was urged that the petitioner has no objection to the grant of maintenance to the children @ ₹4,500/- per month each from the date of impugned order i.e. 07.12.2013. The petitioner is primarily aggrieved whereby he has been directed to pay maintenance @ ₹4,500/- per month each to the children w.e.f. October 01, 2007, when his salary was only ₹10,917/- per month. Counsel for the respondents urged that the petitioner has concealed material facts and did not reveal that after implementation of 6th Pay Commission recommendations, he got huge arrears of enhanced salary w.e.f. January, 2006.

3. By an order dated 10.03.2014, this Court directed to the petitioner to continue to pay maintenance @ ₹4,500/- per month each to the children from the date of order i.e. December, 2013. He was further directed to clear the arrears from the date of filing of the petition @ ₹2,500/- per month to each of the child. In the impugned judgment, petitioner's income was assessed ₹28,395/- (Gross pay) and ₹21,355/-

(Net pay) taking into consideration the salary certificate for July, 2013. The petitioner has placed on record salary slip for the month of February, 2008 when his gross salary was ₹10,917/- and after deductions net salary was ₹6,307/-. As per salary certificate for March, 2009, the gross salary was ₹17,113/- and net pay was ₹12,503/-. Apparently, the income which has been assessed at present taking into consideration the latest salary certificate of the petitioner was much below in the previous years in 2007 and onwards. The respondents have not placed on record any document to show as to how much arrears were received by the petitioner after implementation of the 6th Pay Commission Report or to what extent his salary was revised.

4. Taking into consideration all the aspects, it is ordered that the petitioner shall continue to pay maintenance @ ₹4,500/- per month to each of the children from the date of the impugned order. However, he shall pay maintenance to the children @ ₹3,000/- per month from the date of filing the petition i.e. October 01, 2007, till its disposal by the impugned order on 07.12.2013. Arrears (if any) be cleared within a month.

5. The revision petition stands disposed of in the above terms.

Pending application also stands disposed of.

6. Trial Court record (if any) be sent back forthwith with the copy of the order.

(S.P.GARG)
JUDGE

NOVEMBER 19, 2015 / *tr*