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

DECIDED ON : 16th SEPTEMBER, 2015

+ **CRL.REV.P. 288/2014**

SMT.MANJU & ORS.

..... Petitioners

Through : Mr.Ratnesh Bansal, Advocate.

VERSUS

STATE & ORS.

.....Respondents

Through : Mr.Ashok K.Garg, APP for the
State/R-1
Mr.Ajay Gupta, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Oral)

CRL.M.A.No.7914/2014

1. For the reasons stated in the application, delay in filing the present revision petition is condoned.
2. Application is allowed and disposed of.

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3. The instant revision petition has been preferred by the Petitioners to challenge the legality and correctness of an order dated 30.11.2013 of learned Judge, Family Court, whereby order dated 20.07.2013 under Section 125 Cr.P.C. directing R-2 to pay ₹3,000/- per

month each as interim maintenance to Petitioners No.2 & 3 was modified.

The petition is contested by R-2.

4. I have heard the learned counsel for the parties and have examined the file. By an order dated 20.07.2013, R-2 was directed by the Trial Court to pay ₹10,000/- in all as interim maintenance to the Petitioners in the proceedings under Section 125 Cr.P.C.. ₹4,000/- were meant for Petitioner No.1 and ₹3,000/- each were for the maintenance of both school-going children. Subsequently, on moving of an application under Section 127 Cr.P.C., by R-2, order dated 20.07.2013 was modified observing that education expenses of children were being paid by him.

5. Both the parties are at dispute as to in whose custody the children are. Evidence of the parties is under-way and has yet not been concluded. All such issues are to be adjudicated only after getting the evidence of the parties during trial. Impugned order dated 20.07.2013 granting total maintenance of ₹10,000/- to the Petitioners was passed on merits after considering rival claims of the parties. The facts incorporated subsequently in the application under Section 127 Cr.P.C. regarding payment of tuition fee of children were in R-2's knowledge that time. There was no material change of circumstances after the passing of the

order dated 20.07.2013 to modify or review it. The Petitioner No.1 has placed on record numerous documents showing payment of various expenses incurred by her to bring up the children. Mere payment of 'tuition fee' by R-2 is not enough to absolve him of his liability to pay all other basic reasonable incidental expenses. Maintenance under Section 125 Cr.P.C. includes provisions for food, clothing, education as well as medical treatment as per financial status of the parties.

6. Impugned order withdrawing interim maintenance to the children @ ₹3,000/- per month without cogent reasons can't be sustained and is set aside. R-2 shall continue to pay ₹10,000/- per month as interim maintenance to the petitioners till the disposal of the petition before the Trial Court. He shall also continue to pay tuition fee of the children as was admittedly being done earlier.

7. The revision petition stands disposed of accordingly. Observations in the order shall have no impact on merits of the case. Trial Court record along with copy of the order be sent back immediately.

(S.P.GARG)
JUDGE

SEPTEMBER 16, 2015 / tr