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

**DECIDED ON : DECEMBER 17, 2015**

\+ CRL.REV.P. 732/2014 & Crl.M.A.Nos.18522-23/2014

YOGESH SONI ..... Petitioner

Through : Mr.Bajrang Vats, Advocate.

VERSUS

MASTER DEVESH SONI & ORS ..... Respondents

Through : Mr.Sachin Aggarwal, Advocate, along with Ms.Rakhi Verma, mother of the respondents present in person.

**CORAM:**
**HON'BLE MR. JUSTICE S.P.GARG**

**S.P.GARG, J. (ORAL)**

1. The instant revision petition has been preferred by the petitioner to challenge the legality and correctness of an order dated 30.09.2014 of Judge, Family Court, Rohini, by which in the proceedings under Section 127 Cr.P.C., maintenance amount was enhanced from ₹4,000/- to ₹15,000/- p.m. from the date of filing of the application i.e.15.01.2011 till further orders. The revision petition is contested by the respondents.

2. I have heard the learned counsel for the parties and have examined the record. In divorce petition HMA No.97/08, a settlement was arrived at between the petitioner and respondents' mother whereby divorce by mutual consent took place between the two. ₹5,00,000/- was agreed to be paid by the petitioner to the respondents' mother in respect of her claims including istridhan, dowry articles and permanent alimony. It was further agreed that the petitioner shall pay a sum of ₹4,000/- i.e.₹2,000/- p.m. for each of the respondents for their maintenance. It was further agreed that the respondents could apply for enhancement of the maintenance amount after every two years.

3. Settlement dated 02.09.2007 is not under challenge. As per that settlement, the petitioner was to pay ₹2,000/- p.m. each to the respondents for their maintenance. It was also liable to be enhanced after every two years. However, the respondents did not file any application for its enhancement before 15.01.2011. The petitioner on his own did not deem it fit to enhance the quantum of maintenance. Both the respondents are school-going children and at present are studying in 7$^{th}$ and 5$^{th}$ Standard in Monfort School, Ashok Vihar, Delhi and Kulchi Hansraj Model School, Ashok Vihar respectively. They are aged around 12 and 10 years. The respondents have claimed that the petitioner has income

more than ₹80,000/- p.m. and is manufacturer and exporter of Kundan jewellery at Jaipur. The petitioner's contention is that his income does not exceed ₹25,000/- p.m. as reflected in the Income Tax returns and he is carrying a sole proprietorship firm under the name and style of M/s Y.R.Gems engaged in the brokerage of gems of small scale unit facing high competition and recession in the market.

4. The quantum of maintenance granted at the rate of ₹7,500/- p.m. for each of the respondents after expiry of about four years from the date of settlement cannot be termed excessive considering that both the respondents are getting education at public schools and have to incur substantial expenses for their overall development. The petitioner has not placed on record cogent documents to show his exact income from different sources. Mere reliance on the income reflected in the income tax returns is not an indicator of his exact income. It is well known that many times correct income is not reflected in the income tax returns to avoid income tax. The petitioner has not placed on record any books of accounts of the business being run by him to ascertain as to how the income generated from such business has been calculated and assessed. One of the income tax returns even shows an income of ₹9564/- as interest from FDR details of which have not been furnished. Moreover,

no such income tax returns were produced before the Trial Court at the time of disposal of the petition under Section 127 Cr.P.C.

5. Considering the facts and circumstances of the case and the necessities and other requirements of the respondents, the quantum of maintenance awarded by the learned Trial Court cannot be considered excessive or arbitrary. The revision petition lacks merits and is dismissed. All pending application(s) also stand disposed of.

**(S.P.GARG)**
**JUDGE**

**DECEMBER 17, 2015**
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