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

Date of Decision: 29th June, 2015

+ CRL.M.C. 2561/2015 & Crl. M.A.Nos.9097-98/2015

SUDHIR KUMAR Petitioner

Through: Mr. A.K. Tyagi, Advocate

versus

THE STATE (GOVT OF NCT) DELHI & ORS.Respondents

Through: Mr. Amit Ahlawat, Additional
Public Prosecutor for State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

In execution proceedings under Section 125 of the Cr.P.C., petitioner has been directed to pay maintenance of ₹3,000/- per month to respondent No.2-wife and ₹2,000/- per month to respondent No.3-*child*. Impugned order of 11th March, 2015 in execution proceedings directs petitioner- *Judgment Debtor* to pay ₹70,000/- to the respondent-*Decree Holder* within a month and this interim direction is without prejudice to the rights of petitioner- *Judgment Debtor*.

Upon hearing and on perusal of the impugned order of 11th March, 2015, I find that impugned order is purely interlocutory but it is assailed in this petition on the ground that respondent No.3- *child* was purportedly kidnapped from the school by respondent No.2-*wife* in September, 2014. To submit so, petitioner's counsel had drawn attention of this Court to a

Communication of 27th September, 2014 purportedly by Head Mistress of the school and also to a complaint made by petitioner to the local police regarding kidnapping of respondent No.3-*child* by her mother i.e. respondent No.2-*wife*. Learned counsel for petitioner had asserted that the maintenance amount is not liable to be paid to respondent No.3-child because the custody of the child was with petitioner till September, 2014.

The aforesaid aspect ought to be considered in the revision petition filed by petitioner. Since the impugned order is purely interlocutory, therefore, this Court is not inclined to invoke its extra ordinary inherent jurisdiction under Section 482 of the Cr.P.C.

This petition is accordingly disposed of while maintaining the interim order of 11th March, 2015 with the rider that amount of ₹70,000/- to be deposited by petitioner is liable to be adjusted in the event of petitioner succeeding in the application under Section 127 of the Cr.P.C. It is made clear that impugned order will not stand in the way of trial court to decide pending application under Section 127 of the Cr.P.C. and application under Section 340 of the Cr.P.C. on merits. In the facts of this case, petitioner is granted four weeks' time to comply with the impugned order, failing which execution proceedings shall continue against petitioner.

This petition and applications are accordingly disposed of.

(SUNIL GAUR)
JUDGE

JUNE 29, 2015

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