

\$~36

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

+ **MAT.APP.(F.C.)146/2015**

% ***Judgment dated 11th December, 2015***

TARUNJEET SINGH TANEJA Appellant

Through : **Mr.Rahul Sharma, Advocate**

versus

SUKHVINDER KAUR & ANR Respondents

Through :

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

CM APPL. 30295/2015

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 30296/2015(delay)

3. This is an application filed by appellant seeking condonation of 64 days delay in re-filing the present appeal.
4. Heard. For the reasons stated in the application and in the interest of justice, present application is allowed. Delay in re-filing the present appeal is condoned.
5. Application stands disposed of.

MAT.APP.(F.C.) 146/2015

6. Challenge in this appeal is to the order dated 31.08.2015 passed by the Family Court in Execution Case No.24/2013 and 47/2015.
7. Learned counsel for the appellant submits that the learned Family Court has

failed to take into consideration that a sum of Rs.5.0 lakhs has been voluntarily deposited by him as reflected in the order passed on 14.10.2011 in Bail Application No.1186/2011. He submits that the Family Court has declined to grant maintenance to the respondent/wife, but has fixed maintenance @ Rs.10,000/- for the nine years old daughter. Counsel contends that in the Execution petition filed, the Family Court has failed to appreciate that this Rs.5.0 lakhs is to be adjusted towards arrears of maintenance.

8. We have heard the learned counsel for the appellant and we find no merit in his submissions. We may note that the appellant herein had filed a Bail Application No.1186/2011 in the Delhi High Court. On 14.10.2011, the following order was passed:

“1. The learned counsel for the petitioner has very fairly stated that in order to show his bonafides, he is prepared to deposit a sum of Rs.5 lacs with the Registrar General of this Court without prejudice to his rights and contentions.

2. The learned counsel for the complainant has stated that without any amount being deposited by the petitioner, no interim order shall be granted in his favour.

3. Having regard to the facts of the case and the voluntary offer made by the learned counsel for the petitioner, let the aforesaid amount be deposited with the Registrar General of this Court, which shall be kept in fixed deposit for a period of six months.

4. List on 08.12.2011.

5. The petitioner shall join the investigation.

6. The interim order to continue.”

9. A reading of the order would show that it is not reflected as to whether this amount stands deposited towards maintenance for the wife or the nine years

old daughter. We also find that as noticed by the Family Court in its order dated 31.08.2015 no such ground was raised by the appellant herein during arguments in the application under Section 24 of the Hindu Marriage Act. Para 6 of the order reads as under:

“6.0 In view of the above, it is evident that the amount of Rs.5 lakhs deposited by JD was to show his bonafide in bail matter in FIR u/Ss.406/498A/34 IPC. The said amount was released to DH in the year 2011 without prejudice to his rights and contentions and subject to the final outcome of the FIR. Whereas, the order u/S.24 HMA was passed on 14.01.2013. During arguments on S.24 HMA, no such plea of payment of Rs.5 lacs and its adjustment towards child's maintenance was taken by the JD. Nor did JD approach Hon'ble High Court for clarification order in this regard. Despite Ld. Predecessor Court's order, JD did not pay child's maintenance compelling the DH to file the execution petitions.”

10. While we are convinced of the fact that deposit of any amount cannot be a condition for grant of bail, but the counsel has not been able to explain why only at the time of hearing of the bail application that the appellant got an opportunity to show his *bona fide* and volunteered to deposit Rs.5 lakhs.
11. We find no infirmity in the order passed by the Family Court. No ground made out to entertain this appeal.
12. The appeal is accordingly dismissed. No costs.

CM.APPL 30294/2015(stay)

13. Application also stands dismissed in view of the order passed in the appeal.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 11, 2015/pst