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

+ CONT.CAS(C) 441/2014 & C.M.Nos.2958/2016, 29492/2016,
2247/2016

PUSHPA GUGLANI

..... Petitioner

Through Ms.Manika Tripathy Pandey,
Advocate.

versus

AMIT GUGLANI

..... Respondent

Through Mr.Manoj Kumar, Advocate.

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Date of Decision: 06th September, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Admittedly till July 2016, the respondent has paid the maintenance to the petitioner @ Rs.3,000/- per month from the date of the application.
2. However, the payments have been delayed and it is only in view of the stringent orders passed by this Court that the respondent has tendered the payment.
3. According to the petitioner, in view of the default in payments the respondent is liable to pay penalty amounts in accordance with paragraph 4 of the judgement of this Court in *Gaurav Sondhi Vs. Diya Sondhi, 120 (2005) DLT 426*. Learned counsel for the petitioner points out that the Family Court, while passing the order dated 18th September, 2009 out of which the present contempt petition arises, had made the petitioner aware

that any default in payment would be viewed in accordance with the judgment of this Court in ***Gaurav Sondhi (supra)***.

4. The fact that there has been delay in payments of the maintenance amount is not disputed. In fact, the first payment was made only in April 2012. Consequently, there is no gainsaying that the petitioner is entitled to the benefit of the judgement of this Court in ***Gaurav Sondhi (supra)***.

5. However, this Court finds that in ***Gaurav Sondhi (supra)***, the discretion has been given to the Matrimonial Courts to fix the penalty amount and observed that in certain cases of default, the penalty amount may go upto 50% of the monthly amount of the maintenance.

6. Since the discretion with regard to question of penalty has to be exercised by the Matrimonial Court and the petitioner's application for imposition of penalty amount is pending consideration before the Family Court and coming up for consideration on 14th September, 2016, this Court disposes of the present contempt petition and applications with a direction to the said Family Court to decide the petitioner's application in accordance with the law after giving an opportunity of hearing to the petitioner. The respondent is also directed to pay costs of Rs.10,000/- to the petitioner.

Order *dasti*.

MANMOHAN, J

SEPTEMBER 06, 2016
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