

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

+ **CRL.REV.P. 368/2016**

Date of Decision: July 20th, 2016

SONU KHANNA

..... Petitioner

Through **Mr.Biswajit Swain & Mr.Manoj
Kumar, Advs.**

versus

ISHA SHARMA

..... Respondent

Through **None.**

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

P.S.TEJI, J.

1. The present revision petition has been filed by the petitioner under Section 397 read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter shall be referred to as the "Cr.P.C.") against the order dated 20.01.2016 passed by the learned Principal Judge, Family Courts, Tis Hazari Courts, Delhi in a maintenance petition filed by the respondent-herein vide which the petitioner has been directed to pay a sum of Rs.2500/- per month as ad interim maintenance to the respondent-herein.

2. The factual matrix, in brief, is that the respondent-herein had filed a petition under Section 125 of the Cr.P.C. against the petitioner-herein for the grant of maintenance. It was alleged in the maintenance petition that the marriage of the parties was

solemnized on 13.02.2011 according to Hindu rites and ceremonies. After marriage, the respondent-wife joined the matrimonial home. The mother of the respondent-wife spent a sum of Rs.3,50,000/- in the marriage including the gifts and other articles. The parents of the petitioner-husband were not satisfied with the dowry articles and started causing cruelty on the respondent-wife. On 28.02.2011, the respondent-wife was turned out from her matrimonial house by the petitioner-husband and his parents.

3. An application for the grant of interim maintenance was also filed by the respondent-wife. The Trial Court vide impugned order dated 20.01.2016, after going through the status of the parties, directed the petitioner-husband to pay a sum of Rs.2,500/- per month as interim maintenance to the respondent-wife. Feeling aggrieved by the same, the present revision petition has been filed by the petitioner-husband.

4 Arguments advanced by the counsel for the petitioner were heard.

5. The argument advanced by the counsel for the petitioner is that the Trial Court had failed to appreciate that the Court had already fixed the maintenance of Rs.1,000/- per month in a petition under Section 24 of the Hindu Marriage Act. It was further argued that the Trial Court while passing the impugned order enhanced the maintenance amount from Rs.1,000/- to Rs.3500/- per month. It was further argued that the Trial Court has failed to consider the fluctuation in the salary of the petitioner-husband. The petitioner

was earning Rs.72,000/- per annum in the years 2011 to 2014 and Rs.84,000/- per annum in the year 2015-2016. The petitioner is residing in a rented accommodation and paying rent of Rs.3,000/- per month. It was further argued that the enhanced maintenance of Rs.3500/- per month awarded by the Trial Court is highly excessive and the petitioner is unable to pay such a sum to the respondent-wife.

6. As per record of the case, it is not in dispute that the marriage between the petitioner and respondent was solemnized on 13.02.2011. The allegations leveled in the maintenance petition are that the respondent-wife was turned out of her matrimonial house by the petitioner-husband and his parents. The Court below after considering the facts of the case, awarded interim maintenance of Rs.2500/- per month in favour of the respondent-wife.

7. The contention of the petitioner is that the Family Court already directed him to pay Rs.1,000/- per month in a petition under Section 24 of the Hindu Marriage Act and keeping in view his meager income, he is unable to pay the enhanced amount of Rs.3500/- per month to the respondent-wife.

8. It is apparent from the record that the Court below while deciding the issue of interim maintenance, had taken into account the amount of Rs.1,000/- which was already awarded in a petition under Section 24 of the Hindu Marriage Act. It was specifically mentioned in the impugned order that the petitioner-husband was not inclined to pay any amount to the respondent-wife on the

pretext that he was already paying Rs.1,000/- to her. It is a settled law that it is the duty of the husband to maintain and render financial support to his wife even if he is not working or not earning. The petitioner cannot run away from his responsibility of maintaining his wife who is not earning any money. Even otherwise, the amount awarded of Rs.2500/- per month in favour of the respondent-wife is an interim measure which is subjected to adjustment at the time of final decision of the maintenance petition.

9. In view of the above discussion, this Court finds no illegality or infirmity in the impugned order. The petitioner has failed to show any exceeding of jurisdiction by the learned Trial Judge or the failure to exercise the jurisdiction vested in her.

10. Consequently, the present revision petition and applications, if any, are hereby dismissed.

JULY 20, 2016
dd

(P.S.TEJI)
JUDGE