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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.APP.(C) 4/2016**

DR. SAURABH SABHARWAL Appellant

Through: Mr. Deepak Anand, Advocate
alongwith Ms. Hemlata Rawat and
Mr. Anil Sahrawat, Avocates.

versus

DR. VIBHA GULATI SABHARWAL Respondent

Through: appearance not given.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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29.04.2016

The appellant's contention is that during the course of hearing, he was undertaken threat of initiation of contempt proceedings for filing application for maintenance on behalf of the son- Master Vaibhav Sabharwal. It is submitted that both the undertakings dated 17.10.2011 and 07.02.2013 in respect of which the contempt proceedings were sought to be initiated, were only confined to custody arrangements and nowhere eluded the maintenance. Learned counsel highlights in these circumstances when contempt case no. 321/2015 was considered on 20.04.2015. The interim sought for was refused and the application, permitted to be withdrawn. It was on the contention of the petitioner/wife with respect to violation of the

undertaking vis-a-vis visitation rights, details of which were never disclosed to the Court, that the notice was issued.

It is submitted that in a later said application for the first time-contrary to the pleadings in the contempt petition, it was urged by the petitioner/wife that undertaking pertain to both custody and maintenance arrangements.

This Court notices that the order impugned is one which records the statement that the appellant would withdraw the application whereby he sought maintenance on behalf of his son. Since the statement was made in Court on behalf of the appellant by his counsel, this Court cannot, at this stage, atleast consider whether it was under coercion or otherwise.

At the same time, this Court notices that the prayer in the contempt proceedings was that the undertakings made to the Court on 17.10.2011 and 07.02.2013 are specifically confined to the question of custody and visitation rights. The maintainability of an application for maintenance on behalf of the son could not be construed *prima facie* as contempt.

However, no final view in this regard is expressed.

It is open to the appellant to move the learned Single Judge for withdrawal of the consent and further appropriate action.

It is also submitted that even otherwise the statement of 17.10.2011 clearly states that the understanding with regard to maintenance is that of the wife and not in respect of the child.

In view of the above order, learned counsel seeks liberty to withdraw the appeal and file an appropriate application for

review/consequential order before the learned Single Judge.

Liberty granted.

Appeal is dismissed as withdrawn.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

APRIL 29, 2016

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