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

DECIDED ON : 19th FEBRUARY, 2016

+ **CRL.REV.P. 592/2014**

SAVITA DASS Petitioner

Through : Mr.R.Venkataraman, Advocate.

versus

SAMSON DASS Respondent

Through : None.

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

S.P.Garg, J. (Oral)

1. Present revision petition has been filed by the petitioner to challenge the legality and correctness of an order dated 01.07.2014 of learned Principal Judge, Family Courts Saket in the proceedings under Section 125 Cr.P.C. by which interim maintenance was declined to her. Respondent after appearing initially, opted to remain absent on the adjourned dates.

2. I have heard the learned counsel for the petitioner and have examined the file. Proceedings under Section 125 Cr.P.C. have been

initiated by the petitioner wife against the respondent husband. The respondent after filing written statement in the said proceedings did not appear and was proceeded ex-parte. The case is now fixed before the Trial Court for final disposal.

3. Marriage between the parties is not disputed. The petitioner is living separate from the respondent since 2013. The respondent has admitted to be earning about ₹50,000/- per month due to employment with a T.V. channel. He has a son namely Steve from his previous wife dependent upon him for maintenance. In the petition, the petitioner claimed that she was forced to take up small jobs and at present was working as an Assistant to a Principal of a School in Mayur Vihar, Phase-I, New Delhi and was unable to make both ends meet. In the written statement, the respondent averred that the petitioner was earning handsome amount from her job and was also running an NGO in the name of M/s. Samarpan. She is having an income of ₹70,000/- per month from all sources. In the Income affidavit, the petitioner disclosed her income to be ₹5,000/- - ₹7,000/- per month. Nothing has emerged on record if the petitioner is having any specific and definite income from the NGO M/s.Samarpan as claimed by the respondent. He did not produce on record any cogent document to infer the petitioner's income to be more

than ₹7,000 per month. In the impugned order, the Trial Court was of the view that petitioner's income in between ₹5,000/- - ₹7,000/- was enough to maintain herself.

4. The respondent has not opted to appear before this Court as well as before the Court below to contest the petitioner's claim regarding her exact income. Apparently, the income being generated by the petitioner at present cannot be considered sufficient to maintain herself. Since the respondent is earning a handsome salary of ₹55,000/- per month, at this stage, without prejudice and subject to future adjustment, he can reasonably be asked to contribute ₹7,000/- per month as interim maintenance to the petitioner.

5. In the light of above discussion, the revision petition is disposed of and the respondent is directed to pay ₹7,000/- per month as interim maintenance to the petitioner from the date of filing of the application till the date of the passing of this order. It is, however, clarified that the amount so paid shall be without prejudice and subject to adjustment (if any) during trial. In case, the respondent succeeds on merits in the petition, the amount so paid shall be liable to be returned by the petitioner to him.

6. Observations in the order shall have no impact on the merits of the case.

7. Trial Court record be sent back forthwith with the copy of the order.

(S.P.GARG)
JUDGE

FEBRUARY 19, 2016 / *tr*