

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

Date of Decision: September 16th, 2016

+ **CRL.REV.P. 507/2016**

KHALID

..... Petitioner

Through Mr.Shahid Azad, Mr.Md. Aslam and
Mr.Ashutosh Rana, Advs.

versus

NASREEN

..... Respondent

Through Nemo.

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

P.S.TEJI, J.

1. The present revision petition has been filed under Section 397 read with Section 401 of the Code of Criminal Procedure (hereinafter shall be referred as Cr.P.C.) against judgment dated 09.06.2016 passed by the learned Additional Sessions Judge whereby the appeal filed by the petitioner against order dated 17.11.2015 of the learned Metropolitan Magistrate granting interim maintenance of Rs.16,000/- per month in favour of the respondent was dismissed.

2. Facts, in brief, are that a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (D.V. Act) was filed by the respondent/wife against the petitioner/

husband. In the petition, it was alleged that the marriage between the parties was solemnized on 11.05.2012. In the marriage, father of the respondent/wife gave all the domestic articles, clothes, utensils, gold, silver, cash and car. Since marriage, the petitioner/husband and in-laws started harassing the respondent/wife. The respondent/wife was harassed and meted out with cruelty for or in connection with dowry. On 07.02.2013, the respondent/wife was blessed with a male child at her parental home and at the time of delivery, nobody from the family of husband came. Thereafter, the respondent/wife was asked to bring Rs.5 lacs from her parents. On 21.07.2013, the respondent/wife was beaten brutally and with the help of police and her father, she was taken to hospital. On 22.07.2013, she got lodged an FIR No.317/2013, under Section 307/498-A/506/34 IPC, Police Station Gokal Puri. Since 21.07.2013, the respondent/wife along with her child has been staying at her parental home. It was mentioned that the respondent /wife is a housewife and has no movable or immovable property in her name and has no source of income to maintain herself and her minor son. It was further mentioned that the petitioner/husband was getting salary of Rs.54,000/- per month and was leading a luxurious life.

3. During the pendency of the petition, the respondent/wife had moved an application under Section 23 of the D.V. Act for the grant of interim maintenance. The Trial Court vide order dated 17.11.2015 directed the petitioner/husband to pay a sum of Rs.8,000/- per month each as interim maintenance to the

respondent/wife and her minor son from the date of filing of the petition. The petitioner/husband filed an appeal challenging the order dated 17.11.2015 which was dismissed by the Court of Session vide judgment dated 09.06.2016. Feeling aggrieved by the same, the present petition has been filed by the petitioner/husband.

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

5. The main thrust of argument advanced by the counsel for the petitioner is that the Trial Court has granted interim maintenance in favour of the respondent/wife during the pendency of the interim maintenance application against the set principles of law. It is submitted that even the Court of Session has not appreciated the fact that the grant of interim maintenance till the pendency of the application is against the principles of natural justice.

6. Perusal of record shows that the Trial Court had called the parties to file their respective affidavits of assets, income and expenditure as per the directions of this Court contained in ***Puneet Kaur v. Inderjeet Sahni 2011 (183) DLT 403***. In compliance, thereof, the parties filed their affidavits. As per the affidavit filed by the petitioner/husband, his income was Rs.42,600/- per month. On the other hand, it was alleged by the respondent/wife that she was having no source of income and she had prayed for the grant of maintenance to maintain herself and her minor son. After going through the affidavits of income, expenditure and assets of the parties, the Trial Court directed the petitioner/husband to pay a sum of Rs.8,000/- each to the respondent/wife and her minor son.

7. The contention of the petitioner that the order passed by the Trial Court is bad in law as the Court has granted interim maintenance despite the pendency of application for the grant of interim maintenance. There is no force in this contention of the petitioner for the reasons that the maintenance granted is interim only and not the final one which would be subject to adjustment at the time of final decision on the application.

8. In view of above mentioned facts and circumstances, the present petition is dismissed.

9. Applications Crl.M.A. 11875-11876/2016 are also disposed of.

SEPTEMBER 16, 2016
dd

(P.S.TEJI)
JUDGE

