

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

+ **CRL.REV.P. 359/2015**

Date of Decision: June 13th, 2016

HASIM KHAN Petitioner

Through Mr.Shobit Chaudhary, Adv.

versus

ANJUM NISSA @ ANJUM Respondent

Through Mr.Hitesh Rai, Adv.

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

P.S.TEJI, J.

1. The present revision petition under Sections 401/482 of the Code of Criminal Procedure, 1973 (hereinafter shall be referred to as the "Cr.P.C.") has been filed by the petitioner for setting aside the order dated 30.03.2015 passed by the Court below whereby the petitioner has been directed to pay the maintenance in the sum of Rs.8,000/- per month to the respondent.

2. The factual matrix culled out from the record is that a petition under Section 125 Cr.P.C. was filed by the respondent/ wife against the petitioner/husband claiming therein a maintenance of Rs.20,000/- per month. During the pendency of the main petition, an application was also filed by the respondent/wife for the grant of interim maintenance.

3. It was alleged in the petition that marriage between the

parties was solemnized on 26.04.2009. In the marriage, the father of the respondent/wife spent a huge sum of money. After marriage, the *rukhsat/vidai* was to take place after one year but the attitude of the father of the petitioner/husband changed. He kept on demanding more and more money and dowry. He demanded Mahindra Logan Car and Rs.51 lakh in cash and further Rs.11 lakh at the time of *vidai*. On 15.03.2010, sisters of the petitioner/husband threatened the respondent/wife with dire consequences and they raised the demand of Rs.One Crore 11 lakh. The signature of the respondent/wife on the Nikahnama was to be taken in Delhi as she was not present at the time of *nikah* and she had apprehension that her signatures might have been forged on the Nikahnama. Even the jewellery and dowry articles were wrongly withheld and misappropriated by the petitioner/husband. Thereafter, a complaint was made in CAW Cell and then the FIR No.284/2010, under Sections 406/498-A/34 IPC, Police Station Saraswati Vihar was registered against the petitioner/husband and his family members. Since the respondent/wife was unable to maintain herself, she claimed the maintenance from the petitioner/husband.

4. The petitioner/husband filed the written statement to the maintenance petition and refuted the claim made by the respondent /wife. On an application filed by the respondent/wife for the grant of interim maintenance, the Court below vide order dated 30.03.2015 awarded the maintenance of Rs.8,000/- per month to the respondent/wife.

5. Feeling aggrieved by the passing of the impugned order dated 30.03.2015, the present revision petition has been preferred by the petitioner.

6. The argument advanced by the learned counsel for the petitioner is that the respondent/wife is not having any child and despite that, the Court below awarded the maintenance to the minor child also. Further it has been argued that the respondent/wife and her father cheated a sum of Rs.1,09,50,000/- from the father of the petitioner. It was further argued that the Trial Court failed to appreciate the fact that the respondent/wife never resided in the company of the petitioner; respondent/wife herself admitted that the nikahnama was not signed by her; respondent/wife had no intention to establish matrimonial life and petitioner is a student of BCA and is dependent on his parents.

7. Perusal of record reveals that the order under challenge has been passed by the Court below in an application for the grant of interim maintenance. The Court below granted interim maintenance in the sum of Rs.8,000/- per month to the respondent/wife during the pendency of the main petition. It is apparent that it has been mentioned in the impugned order that the maintenance has been awarded to the respondent/wife and her minor son, whereas it is not in dispute that no such child was ever born out of the wedlock. It appears that the mentioning of minor son is a typographical error, but the same cannot be made a basis to discard the entire order which has been passed on the basis of material placed before the Court.

8. The contentions made in the present petition with regard to factual aspect, are matter of trial and no comment on the same can be made at this stage. The same can be ascertained only after adducing evidence by the parties. It is also apparent from the record that the order under challenge is only interim in nature and not a final decision of the maintenance petition. The amount of maintenance awarded is always subject to the adjustment which will depend on the final outcome of the maintenance petition filed by the respondent/wife.

9. In view of the above facts and circumstances, the petitioner has failed to show any error apparent on the face of it or any exceeding of jurisdiction or failure to exercise the jurisdiction vested in the Courts below while passing the order under challenge. However, it is made clear that any payment made in pursuance of the order granting interim maintenance shall be subject to the adjustment of the maintenance granted while passing final order by the Trial Court.

10. Before parting with, any observation made above shall not have any bearing on the merits of the case.

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

(P.S.TEJI)
JUDGE

JUNE 13, 2016
dd