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

Date of Decision: September 16th, 2016

\+ CRL.REV.P. 769/2015

RESHAM DEVI ..... Petitioner

Through: Mr.Lalit Kumar, Advocate.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR ..... Respondent

Through: Mr.M.P.Singh, APP.
Mr.Naveen Yadav, Advocate for R-2.

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 and 401 read with Section 482 of the Code of Criminal Procedure (hereinafter shall be referred as Cr.P.C.) for setting aside the order dated 03.08.2015 passed by the learned Principal Judge, Saket Court, New Delhi vide which the maintenance in favour of the petitioner has been awarded to the tune of Rs.5,000/- per month from the date of the order along with litigation expenses of Rs.5,500/-.

2. Facts, in brief, are that a petition under Section 125 of the Cr.P.C. was moved by the petitioner for the grant of maintenance. It was mentioned that the marriage of the petitioner and respondent

no.2-Bhoopesh Kumar Yadav was solemnized on 06.05.1999 according to Hindu rites and ceremonies. No child was born out of the said wedlock. It was alleged the petitioner was taunted for not bringing sufficient dowry by the respondent-husband and his family members. It was also alleged that the respondent-husband failed to maintain the petitioner and willfully neglected her. It was mentioned that the petitioner had studied only upto 5th standard and was unable to maintain herself, whereas the respondent-husband was allegedly earning Rs.10,000/- per month from the factory being run by him; earning Rs.15,000/- per month from a nursery school being run by him and was also having agricultural income of about Rs.50,000/- per annum.

3. On the other hand, the respondent-husband denied all the averments made in the maintenance petition.

4. Both the parties adduced evidence in support of their case. The Court below after going through the evidence and the material placed before it, held that the petitioner is entitled for a sum of Rs.5,000/- per month from the date of order and a sum of Rs.5,500/- towards legal expenses. Feeling aggrieved by the same, the petitioner has preferred the present revision petition.

5. Arguments advanced by the counsel for the parties were heard. I have gone through the submissions made by the counsel for the parties and the material available on record.

6. Main point of argument advanced by the counsel for the petitioner is that the income of the respondent no.2-husband has wrongly been assessed by the Court below as Rs.15,000/-. The

respondent no.2 is earning a handsome amount per month from the factory and school being run by him apart from having agricultural income. The other contention of the petitioner is that the Court below has awarded the amount of maintenance from the date of the order and not from the date of filing of the application and thus deprived the petitioner-wife of a considerable amount to maintain herself. The maintenance petition was filed in the year 2003 and the order under challenge was passed on 03.08.2015, but facing the pendency of 12 years, the amount of maintenance for the said period was declined without any reason.

7. Perusal of record shows that the Court below has gone into the evidence and the material placed before it at the time of assessing the income of the petitioner to be Rs.15,000/- per month and this Court does not find any fault in the same. This Court also does not find any fault in the grant of maintenance of Rs.5,000/- per month in favour of the petitioner-wife.

8. So far the contention of the petitioner to the effect that the Court below erred in awarding maintenance from the date of the order and not from the date of filing of the petition is concerned, perusal of order dated 03.08.2015 passed by the Court below shows that no finding has been recorded as to why the respondent no.2-husband has been directed to pay the maintenance amount from the date of the order. In the entire order, no reasoning has been given as to why the maintenance awarded has not been granted from the date of filing of the maintenance petition.

9. In view of the facts and circumstances mentioned above, the

order passed by the Court below is upheld. However, the matter is remanded back to the Court concerned with the direction to give findings afresh whether the petitioner-wife is entitled for maintenance from the date of filing of the maintenance petition or not and record reasons for such findings.

10. With the above observations, the present petition is disposed of.

(P.S.TEJI)
JUDGE

SEPTEMBER 16, 2016
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