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

+ CRL.REV.P. 202/2017

KAMAL SINGH NEGI ..... Petitioner

Through Mr. Abhishek Salwan, Adv.

versus

STATE & ORS. .... Respondents

Through Ms. Meenakshi Dahiya, APP

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

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**20.09.2017**

Respondents nos.2 to 4 had filed a petition under Section 125 Cr.P.C. against the petitioner wherein interim maintenance of Rs.3,000/- has already been awarded by the trial court. Vide order dated 29<sup>th</sup> July, 2016 learned Principal Judge proceeded ex-parte against the petitioner. Proceedings are still pending before the Family Courts. On 24<sup>th</sup> August, 2016, petitioner moved an application for setting aside the ex-parte order. He took a plea that due to heavy rain there was a traffic jam, therefore, petitioner could not reach the Court on time while coming from Nangal Raya. Petitioner was on motorcycle and by the time he reached Dhaula Kuan the road was jam packed. It has been noted that on earlier occasion also petitioner was proceeded against ex-parte, inasmuch as, no interim maintenance was paid by him.

In my view, trial court ought to have considered only the reasons furnished for non-appearance on 29<sup>th</sup> July, 2016 and should not have taken into account other considerations, while disposing of the application for setting aside the ex-parte order. Accordingly, impugned order dated 9<sup>th</sup> November, 2016 is set aside, consequently, order dated 29<sup>th</sup> July, 2016 whereby petitioner was proceeded against ex-arte, is also set aside subject to, however, payment of costs of ₹7,500/- to the petitioner to the respondent no.2.

The petition is disposed of in the above terms. Dasti.

**A.K. PATHAK, J**

**SEPTEMBER 20, 2017**  
**RB**