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

+ CRL.REV.P. 203/2016 & CrI.M.A.4320/2016 (Stay)

GOURAV MALIK

..... Petitioner

Through: Mr.Apurb Lal and Mr.Ashesh Lal,
Advs.

versus

BABY AKKASHITA

..... Respondent

Through: Mr.Manish Kaushik, Adv.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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23.08.2017

The petitioner is aggrieved by the order dated 10.02.2016 passed by the learned Principal Judge, Family Court, East District, Vishwas Nagar, Delhi in CC No.399/2014 whereby, as an interim measure, the petitioner has been directed to pay an amount of Rs.8,300/- per month to the respondent, from the date of filing of the application for maintenance i.e. from 08.01.2013 till the disposal of the case besides the litigation expenses which has been assessed at Rs.11,000/-.

The short facts necessary for disposal of the case are as hereunder.

The present petition has been filed by Baby Akkshita through the agency of her mother and guardian Smt.Rajani Malik. Ms.Rajani Malik was married to the petitioner on 03.02.2008 in accordance with Hindu religious rites in Delhi. It was submitted in the petition before the Family Court that right from the beginning of the marital life, the mother of the applicant was

harassed for bringing more money and a car as dowry. The mother and the daughter, both, were allegedly expelled from the house of the petitioner on 25.03.2011. Ever since then, the mother of the applicant and the applicant are residing in the parental house of the mother. The petitioner and the mother of the applicant were divorced by an order of a competent Court on mutual consent.

The Family Court found out that the salary of the petitioner was Rs.56,852/- and after deduction of Rs.10,000/- towards GPF and Rs.3860/- towards the society, the income of the petitioner came to around Rs.43000/-. The salary of the mother of the applicant was found to be much more than that of the petitioner as her gross salary was Rs.1,13,230/-.

The Family Court perhaps erred in assessing the quantum of expenses incurred on the maintenance of the applicant by only taking into account the withdrawals from the bank account of the mother of the applicant. From the bank account of the mother of the applicant, Rs.50,000/- was shown to have been withdrawn. The Family Court has not taken into account the other mode of withdrawal of money or expenses incurred over the maintenance of the applicant.

Be that as it may, the Family Court was of the view that if the monthly withdrawal was Rs.50,000/- by the mother of the applicant, it would be expected that 50% of that amount would be spent on the maintenance of the child.

The Court thereafter was of the view that even though the petitioner has been divorced from the mother of the applicant, the applicant needed to be maintained by the petitioner in the ratio of 2:3. Taking into account the fact that the mother of the applicant earned more than the petitioner, the

Court fixed the quantum of maintenance payable by the petitioner at Rs.8300/- per month w.e.f from the date of filing of the application i.e. from 08.01.2013 till the disposal of the petition. Litigation expense has been fixed at Rs.11,000/-.

The petitioner has challenged the aforesaid order only on the ground that the mother of the applicant/daughter is earning much more than the petitioner. The aforesaid argument is not tenable. The family court has taken into account the aforesaid fact and has therefore directed for the payment in the ratio of 2:3.

No good ground thus has been shown by the petitioner to interfere with the order passed by the Family Court.

By order dated 29.05.2017 passed by this Court, the petitioner was directed to deposit Rs.1 lakh in favour of the applicant and on such deposit the Execution No.162/2016 was stayed. The amount which has been deposited by the petitioner shall be adjusted in the in the arrears of maintenance which the petitioner is required to pay.

Since this Court finds no good ground for interfering with the order, this revision petition is dismissed.

The stay of the Execution case is accordingly vacated.

The petition is dismissed.

It is, however, made clear that this order would not be construed as an expression of any opinion on the merits of the case at the time of final determination by the Family Court.

ASHUTOSH KUMAR, J

AUGUST 23, 2017/k