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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CRL.REV.P. 478/2016  
DR.SUMAN DATTA ..... Petitioner

Through: Mr. Aseem Mehrotra, Adv.  
versus

POOJA DATTA RAY & ANR. .... Respondents  
Through: Mr. Vivek Sharma, Adv.

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

**ORDER**  
% **12.07.2017**

It is not in dispute that application for interim maintenance of the respondent no.1 is still pending before the Family Court and has yet not been decided. Vide order dated 3<sup>rd</sup> June, 2016, which is impugned in this revision petition, petitioner has been directed to deposit ₹2.50 lacs in the bank account of respondent no.1.

During the course of hearing, learned counsel for the petitioner has pointed out that ₹1.75 lacs has already been deposited in the bank account of respondent no.1. He further submits that trial court did not consider the fact that respondent no.1 is a qualified dentist who had even worked in Ramakrishna Hospital, Haridwar for six months. She is capable of earning. This fact has not been considered in the impugned judgment. Vide judgment dated 5<sup>th</sup> September, 2016 passed in MAT.APP.(F.C.) 143/2014 titled

Rupali Gupta vs. Rajat Gupta a Division Bench of this Court has observed that capacity to earn of spouse is to be considered while considering the grant of maintenance.

Accordingly, revision petition is disposed of with the directions to the Family Court (Shahdara District), Karkardooma Court to dispose of the application of interim maintenance of the respondent no.1 expeditiously and preferably within four months. Keeping in mind the qualification of the respondent no.1, petitioner need not deposit the remaining amount.

Dasti.

**A.K. PATHAK, J.**

**JULY 12, 2017**

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