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

+ CRL.M.C. 2215/2017

ASHISH SINGH

Through: Appellant
Appellant in person

versus

PUSHPA SINGH & ORS.

.... Respondent
Through: Respondent No. 1 in person

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

05.09.2017

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1. The present appeal is preferred by the appellant under Section 482 of The Code of Criminal Procedure, 1983, (hereinafter referred to as 'CrPC' for short) for *inter-alia* **setting aside the Judgment/Order** dated 24.04.2017, passed by the learned Principal Judge, Family Court, Karkardooma Court, Delhi.
2. The brief facts as stated by the appellant giving rise to the present case are that the marriage between the appellant and the respondent No.1 was solemnized on 09.05.2004, and the respondent No.1 thereafter had stayed with the appellant, at the matrimonial home for only a period of 10-11 months in their 13 years of marriage. A female child being respondent No.2 was born, out of the said wedlock of the appellant and the respondent No. 1. In the year 2009, the respondent joined and deserted/ left the company of the appellant several times, without any particular cause. The appellant herein was brutally assaulted by the respondent No.1's family

members many a time. The respondent No.1 had demanded an amount of 8,00,000/- from appellant by filing a Complaint Case bearing CC No. 624/2014 under Section 124 of the CrPC. On 17.01.2013, interim maintenance to the tune of Rs. 2000/- payable per month to each Respondent/ Decree Holder, was granted by the Court of MM, Karkardooma Courts, Delhi, in CC No. 624/2014. An Execution Petition bearing No. 17/2016, was preferred by the said respondent/ Decree Holder against the appellant for execution of the order dated 17.01.2013. Objections to the said Execution Petition were raised by the appellant; which were dismissed by the Court of Principal Judge, Family Court, Karkardooma Court, Delhi, vide order dated 24.04.2017, which order has been impugned herein.

3. Appellant who appeared in person contended that the respondent no.1 had wrongly put forth her income and expenses and the appellant herein had suffered a lot of harassment at the hands of respondent No. 1 and her family members, due to which the appellant was also terminated from his employment; that the Principal Judge erred in dismissing his objections without taking into account the fact that the application filed by him under Section 125(5) dated 15.10.2014 for cancellation of the interim order dated 17.01.2013 was still pending; that the said Execution Petition is barred by limitation and was only initiated with a clear intention to cause inconvenience to the appellant herein.
4. Per contra, it is the case of the respondent no.1 in the Execution Petition that the amount due and payable towards maintenance had

not been complied with by the appellant; that the respondent no.1 has to look after her two minor daughters.

5. The submissions made by the both the parties have been considered and the records have been perused.
6. As per the record, the respondent no.1 filed an Execution Petition No.17/2016 for compliance of order of maintenance dated 7.01.2013 wherein the Trial Court while dismissing the Execution Petition held that filing of the Execution Petition was not necessitated in view of the proposition of law laid down in *Shantha vs V. G. Shivananjappa* reported in (2005) 4 SCC 468, (*supra*) wherein it has been held that petition under Section 125 Cr.P.C is a measure of social legislation and it has to be construed liberally for the welfare and maintenance of the wife and daughter. It is unreasonable to insist on filing successive application on the liability to pay maintenance as per the order passed under Section 125 is a continuing liability.
7. Since the Complaint Case No. 624/2014 was pending final adjudication, appellant/appellant was liable to pay the maintenance as he was under an obligation to clear the arrears of maintenance due to respondents and continue to pay the same as per the order passed by the Court of learned Principal Judge.
8. There is no doubt that the Execution Petition No. 17/16 was initiated by the respondent No.1 during the pendency of the Complaint Case No. 624/14, for execution of the interim order dated 17.01.2013, which fact was also noted by the Court of Principal Judge in the impugned order dated 24.04.2017.

Therefore, it can be rightly so reflected that the Court of Principal Judge was of the correct considered view that the Execution Petition No. 17/16 was not necessitated.

9. On the basis of the above facts, it is observed that there is no need for any interference in the impugned order passed by the learned Principal Judge and however, the court concerned shall be at liberty to take appropriate steps in case the appellant fails to clear the arrear of maintenance.
10. Accordingly, the present application is dismissed.

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 5, 2017

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