

\$~54

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

Judgment dated: 8th May, 2017

+ CRL.REV.P. 729/2015
SUNIL LATAWA

..... Petitioner

Through: Mr.Ramit Malhotra, Advocate.

versus

SHILPI LATAWA

..... Respondent

Through: Mr.Nischal Joshi, Advocate with the
respondent in person.

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

I.S.MEHTA, J (ORAL)

1. The instant revision petition is preferred by the petitioner under Section 397 Cr.P.C. for setting aside the impugned order dated 01.06.2015 passed by the Family Courts, Dwarka, New Delhi in M.No.44/2014.

2. The brief facts as stated in the maintenance petition filed under Section 125 Cr.P.C. are that the respondent Shilpi Latawa got married to the petitioner Sunil Latawa on 28.11.2004 at New Delhi according to Hindu rites and ceremonies and out of the said wedlock, two children, namely Master Saksham and Master Saransh were born. It is stated in the said application under Section 125 Cr.P.C. that the expenses for the delivery of child namely Master Saaranish were borne by the family members of the respondent. After the birth of the two minor children, the petitioner started harassing the respondent-wife and his two minor children, which compelled the respondent-wife to leave the matrimonial house with her two children. Thereafter, the respondent got registered FIR

against the petitioner and also filed a complaint under the Domestic Violence Act. As per the averments made in the maintenance application, the petitioner even did not pay even a single penny for the upkeep of the minor children and his wife (respondent herein) which resulted into filing of the application by the respondent-wife seeking maintenance for herself and her two minor children from the petitioner-husband. As per the averments made in the application, the petitioner is stated to be a man of means, however, he is not maintaining his wife and two minor children and is reluctant to fulfil his statutory obligation.

3. Consequently, the Family Courts, Dwarka, New Delhi, after hearing the counsel for the parties and after perusal of the documents placed on record, passed the impugned order dated 01.06.2015 whereby the petitioner was directed to pay an amount of Rs.10,000/- per month as interim maintenance to the respondent-wife and an amount of Rs.7,500/- per month each as interim maintenance to the two minor children from the date of filing of the maintenance application.

Hence the present revision petition.

4. Learned counsel for the petitioner has submitted that the impugned order is bad in law as the husband is not employed and there is no document on record to suggest that the interim maintenance is good in law. He further submits that the petitioner has already been relieved from the job w.e.f. 04.02.2015 and this fact has not been considered by the learned Family Judge.

5. Learned counsel for the respondent, on the other hand, has submitted that the respondent is unemployed, having no source of income, therefore, unable to bring up her two minor children. He further submits that the monthly school fees of the two minor children is Rs.15,000/- per child and opposes the present petition.

6. Heard learned counsel for the parties and perused the record.

7. It is an admitted fact coming on record that the main maintenance petition

is pending before the Trial Court. The determination of the maintenance amount will be done by the Trial Court after leading of evidence by the respective parties and on the basis of material documents and income affidavits of the parties. However, this Court finds no irregularity and illegality in the impugned order dated 01.06.2015 passed by the Family Court.

8. Since the respondent and her two minor children are to be maintained by the petitioner, in the absence of denial of existence of the marriage and denial of paternity of the two minor children, who are stated to be school going and their school fees is stated to be Rs.15,000/- per month per child, the petitioner cannot shy away from his statutory obligation of maintaining his legally wedded wife and his two minor children.

9. In view of the aforesaid, I find no infirmity in the impugned order dated 01.06.2015 passed by the Family Court. The revision petition filed by the petitioner is dismissed. However, this order shall not affect the merits of the case, as the determination of the maintenance amount will be done by the Trial Court after considering the evidence on record and income affidavits of the parties.

10. The present petition is disposed of in the above terms. The Trial Court is directed to dispose of the maintenance petition filed by the respondent-wife as soon as possible and preferably within a period of six months from the date of this order.

11. Copy of this order be sent to the concerned Court. No order as to costs.

Copy of this order be given *dasti* to the parties, as prayed.

**I.S. MEHTA
(JUDGE)**

MAY 08, 2017
'dc'