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

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Judgment delivered on: 05.03.2018

+ **CRL.REV.P.105/2017**

RAKESH DHAWAN

..... Petitioner

versus

OM PRAKASH DHAWAN

..... Respondent

Advocates who appeared in this case:

For the Petitioner :

Mr. R.C. Pathak, Advocate along with
petitioner in person

For the Respondent :

Mr. Jatin Rajput with Mr. Sandeep Kumar,
Advocates

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

05.03.2018

SANJEEV SACHDEVA, J. (ORAL)

**CRL.REV.P.105/2017 & CRL.M.A.1803/2017 (stay) & CRL.M.A.
1805/2017 (delay in filing for 41 days)**

1. The petitioner seeks setting aside of order dated 17.10.2016 passed by the Family Court under Section 125 Cr.P.C. awarding maintenance of Rs.1500/- per month to the respondent.

2. Respondent is the father of the petitioner and aged 78 years. As per the respondent, he is receiving old age pension of Rs.1500/- per

month and is presently getting rent of approximately Rs.1265/- from the two shops in his possession.

3. Petitioner has five shops in his possession, out of which three shops have been rented out. It is contended by the petitioner that he is receiving rent of Rs.625/- from the said three shops. Two of the shops are in his possession; one of which is being used by his wife to run a beauty parlour and in other shop the petitioner has opened his office of property dealer.

4. Keeping in view the facts and circumstances of the case the Trial Court has awarded only an amount of Rs.1500/- per month to be paid to the respondent, who is the father of the petitioner.

5. Admittedly, at this age the respondent who is aged 78 years would not be in a position to seek any employment or vocation to augment his income. He is receiving a meagre sum of Rs. 2765/- (i.e. Rs.1500/- as old age pension and Rs.1265/- as rent from the shops in his possession). The parties are living in Delhi. In today's day and age, a meagre sum of Rs.1265/- would not be sufficient for subsistence.

6. The petitioner is a young person and admittedly engaged in his own business. Apart from this, his wife is also earning. A direction to the petitioner to maintain his father and to pay a meagre sum of Rs.1500/- per month is not a direction which calls for any

interference.

7. The reliance placed by learned counsel for the petitioner on a decision of the Supreme Court in *Kirtikant D. Vadodaria vs State of Gujarat & Anr.*: 1996 (2) Crimes 119 (SC) to contend that proceedings under Section 125 Cr.P.C. are not to be used to punish or harass someone, is misplaced. Said judgment is not applicable to the facts of the present case. The Supreme Court was dealing with a dispute between son and step mother and was *prima facie* of the view that the claimant has proceeded against the step son with a view to harass and punish him.

8. In the present case, the respondent has income of Rs.2765/- which is clearly not sufficient to maintain himself. A claim, under Section 125 Cr.P.C., by a father who has no source of income, cannot be said to be a claim to harass or punish the petitioner.

9. The other judgment in *Attar Singh Jain vs. Amir Singh Jain*: 1982 CrL. L.J. 211 as well as *Santosh Malhotra vs. Ved Prakash Malhotra & Ors.*: 2012 (2) JCC 1325 are also not applicable in the facts of the present case. The respondent admittedly lives alone and does not have any other family member to take care of him.

10. The contention of learned counsel for petitioner that respondent had contracted another marriage and from there he had three sons, firstly is disputed by the Respondent, secondly the said contention is

irrelevant, in view of the fact that respondent is admittedly living alone and there is no other family member to take care of him. Petitioner is the son of the respondent and accordingly has an obligation to maintain the respondent.

11. In view of the above, I find no infirmity in the impugned order and the direction to the petitioner to pay Rs.1500/- per month to his father/respondent.

12. In view of the aforesaid, the petition is dismissed. Pending applications are also disposed of accordingly.

SANJEEV SACHDEVA, J

March 5, 2018/ns

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