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

+ **CRL.M.C. 878/2018 & CRL.M.A. 3240/2018**

SABINA SAHDEV & ORS Petitioner

Through: Ms.Shreya Singhal, Adv.

versus

VIDUR SAHDEV Respondent

Through: Mr.Sanjiv Bahl, Mr.Eklavya Bahl and
Ms.Apoorva Bahl, Advs.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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16.07.2018

1. Petitioner impugns order dated 22.01.2018 whereby the Appellate Court had decided to entertain the appeal under Section 29 of the Protection of Women from Domestic Violence Act (DV Act) by directing the respondent to deposit 50% off the arrears of maintenance awarded by the Trial Court till the date of filing of the appeal.

2. Noticing a difference of opinion in the judgment of this Court in *Rajeev Preenja v. Sarika & Ors.*, (2009) 159 DLT 616 and judgment dated 04.05.2015 in Crl.Rev.133/2013 titled *Brijesh Kumar Gupta vs. Shikha Gupta*, this Court had referred the matter to a larger bench to resolve the conflicting view expressed by the two judgments.

3. By judgment dated 09.07.2018 the reference has been answered and the Division Bench has held that a revision under Section 399 read

with Section 401 Cr.P.C and an appeal under Section 29 of the DV Act, against the order granting maintenance under Section 125 Cr.P.C and under Section 23 of the DV Act respectively, would be maintainable and would be entertained and heard without any pre condition of deposit of the arrears of maintenance as ordered by the learned MM. The Division Bench has further held that pendency of such a revision or appeal, as the case may be, shall not operate as a stay of the operation of the order granting interim maintenance.

4. The effect of the same is that, keeping in view the facts and circumstances of each case, it would be open to the Appellate/Revisional Court to pass interim orders on such terms as may be justified and it would not be obligatory on the Appellate/Revisional Court to direct pre deposit of the entire arrears of maintenance.

5. By order dated 20.02.2018 this Court had directed the respondent to pay 50% of the amount as assessed by the Trial Court and continue to pay future maintenance also at the rate of 50%.

6. Keeping in view the facts and circumstances of the case, I am of the view that the direction should be issued to the Appellate Court to expedite the disposal of the appeal while maintaining the interim arrangement as directed by this Court by order dated 20.02.2018.

7. Accordingly, the Appellate Court is directed to expedite the disposal of the appeal and endeavour to dispose of the same preferably within one month from the next date of hearing fixed before the Appellate Court.

8. In the meantime, the interim order dated 20.02.2018 of this Court directing the respondent to continue to pay future maintenance at the rate of 50% shall continue till the disposal of the appeal and thereafter would be subject to further orders passed by the Appellate Court.
9. The present petition is disposed of in the above terms.
10. Order Dasti under the signature of the Court Master.

SANJEEV SACHDEVA, J

JULY 16, 2018
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