$~29

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

DECIDED ON : MAY 08, 2018

\+ **CRL.REV.P.539/2012,CRL.M.A.Nos.17153/12 & 4059/13**

AKSHOD KUMAR SHARMA ..... Petitioner

Through : Mr.F.K.Jha, Advocate.

versus

MASTER SHREE SHARMA ..... Respondent

Through : Mr.Tanmaya Mehta, Advocate with Ms.Swati Gupta, Advocate.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present revision petition has been preferred by the petitioner to challenge the legality and correctness of an order dated 04.08.2012 of learned Judge, Family Court whereby interim maintenance @ ₹8,000/- p.m. was granted to Master Shree Sharma/respondent from the date of filing of the application i.e. 21.10.2008 till further orders. The revision petition is contested by the respondent.

2. I have heard the learned counsel for the parties and have examined the file. The respondent through her mother has filed proceedings under Section 125 Cr.P.C. to claim maintenance from his father, the present petitioner. The relationship between the parties is not at dispute. It is also not in controversy that the petitioner was married to Ms.Tanu and two children were born to her out of this wedlock, one is Runu Sharma and the other is Shree Sharma (the present respondent). Both the children are admittedly in the custody of the mother. It is also not in dispute that the respondent's mother is gainfully employed and

has sufficient income to maintain herself; she has not claimed any maintenance for herself in the proceedings under Section 125 Cr.P.C. She also undertook the responsibility to maintain her daughter Runu Sharma studying in Apeejay school, Pitampura. She is bearing all the expenses including the education expenses for the child Runu Sharma. Only for the maintenance of the present respondent Shree Sharma, maintenance has been claimed under Section 125 Cr.P.C. from the petitioner. The petitioner being the father of the respondent has legal duty to contribute for the maintenance of the child in the mother's custody. It is not denied that the child is getting education at Apeejay school, Pitampura. It is informed that he is suffering from precocious puberty since 2005 and the mother has to incur expenses for the treatment.

3. The petitioner contesting the proceedings under Section 125 Cr.P.C. claimed that he did not have sufficient income to maintain himself as well as the child. He claims himself to be employed with 'Vishvas Infrastructure Limited' since August, 2007. On a salary of ₹3,050/- per month; certificate to that effect was placed on record. The trial court by the impugned comprehensive order gave detailed reasons to conclude that the present petitioner had attempted to conceal his real income. It can be inferred on perusal of the record that the petitioner has suppressed his actual income and is furnishing conflicting and contradictory pleas. Material facts regarding the income have been concealed deliberately. Record reveals that the petitioner was Director/Chairman in Citurgia Biochemicals Ltd. Income tax returns have been filed to show that the income from the said concern was

₹4,000/- p.m. only. The trial court noted various discrepancies and inconsistencies in the documents placed on record. Admittedly, the brothers, mother and sister of the petitioner all have settled abroad; he himself had travelled abroad several times as reflected in the photocopy of the pass-port placed on record. The petitioner claims that House No.E-5/22, Sector-16, Rohini was purchased by him and sufficient amount was incurred for its construction. He, however, did not divulge as to from where the money was arranged for purchase and construction. The trial court has noted various 'admissions' made by the petitioner in civil proceedings whereby he had claimed himself to be belonging to a family having a very high status; he claimed to have a lot of income. He received a payment of ₹50,686/- from his brother Amodh Kumar Sharma from abroad. The impugned order records that the petitioner was having FDRs, NSCs, IPVs, KVPs, Post office scheme, PPF etc. and interest income therefrom. Various documents showing bank transactions carried out by the petitioner have been filed. It was further observed that the bank passbook and other records show that the petitioner was dealing in shares, debentures etc.; he had shares in Inderprastha Gas Limited; two demat accounts. From all these admissions/documents, it can be inferred that the petitioner has sufficient regular income not only to maintain himself but also the child.

4. The trial court has taken into consideration the income of the respondent's mother while determining the quantum of maintenance. It also observed that the expenses shown to be incurred on the child are at a higher side.

5. The grant of maintenance @ ₹8,000/- p.m., which is an interim arrangement, cannot be considered excessive or unreasonable. The present petition seems to have been made merely to harass the respondent and his mother by dragging them into litigation, otherwise, it was not a big issue for the petitioner to pay ₹8,000/- p.m. for the maintenance of the child.

6. The impugned order based upon fair appreciation of the facts suffers from no illegality or material irregularity and no intervention in the impugned order is called for. Moreover, it is an interim arrangement and the parties will be at liberty to adduce evidence before the trial court during trial to substantiate their respective pleas about the income generated by them.

7. The revision petition being unmerited is dismissed with costs of ₹25,000/- p.m. to be paid to the respondent on the next date of hearing before the trial court.

8. Since the proceedings under Section 125 Cr.P.C. are pending since 2010, the trial court shall endeavour to dispose of the said proceedings at the earliest preferably within six months.

9. Observations in the order shall have no impact on merits of the case.

10. Trial Court record be sent back forthwith through Special Messenger along with the copy of the order.

S.P.GARG
(JUDGE)

MAY 08, 2018/sa