

\$~21 to 23

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
DECIDED ON : 5th APRIL, 2018

+ **CRL.REV.P. 679/2013**

SHALINI YADAV Petitioner
Through : Mr.Ravindra Narayan, Advocate.
versus
STATE OF NCT OF DELHI & ANR. Respondents
Through : Mr.Tarang Srivastava, APP.
Mr.Abdul Sattar, Advocate for R2.

+ **CRL.REV.P. 627/2014 & CRL.M.A.No.15829/14**

RAJESH YADAV Petitioner
Through : Mr.Abdul Sattar, Advocate.
versus
STATE & ANR Respondents
Through : Mr.Tarang Srivastava, APP.
Mr.Ravindra Narayan, Advocate for R2.

+ **CRL.REV.P. 58/2015, CRL.M.A.Nos.1464-65/15**

SHALINI YADAV Petitioner
Through : Mr.Ravindra Narayan, Advocate.
versus
N C T OF DELHI & ANR Respondents
Through : Mr.Tarang Srivastava, APP.
Mr.Abdul Sattar, Advocate for R2.

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

S.P.GARG, J. (Oral)

1. Revision Petition No.679/2013 has been filed by the petitioner – Shalini Yadav to challenge the legality and correctness of an order dated 13.08.2013 of learned Family Court, Saket whereby in

the proceedings under Section 125 Cr.P.C. interim maintenance @ ₹3,000/- per month from the date of filing of the application was awarded to her. The petition is contested by the respondent Rajesh Yadav.

2. Revision petition No.627/2014 has been filed by Rajesh Yadav to impugn the order dated 08.08.2014 of learned Addl. Sessions Judge in Criminal Appeal No.07/2014 whereby in the proceedings under Section 12 D.V.Act, he has been directed to pay maintenance @ ₹7,000/- per month w.e.f. 22.01.2011. This petition is contested by Shalini Yadav (the respondent).

3. Shalini Yadav has also challenged the said order of the learned Addl. Sessions Judge in Criminal Revision Petition No.58/2015 whereby only ₹7,000/- per month has been awarded as interim maintenance under D.V.Act whereas the Trial Court had awarded ₹15,000/- per month. It is contested by Rajesh Yadav.

4. Since all the revision petitions are inter-connected and issue involved therein is the same, the revision petitions are taken up together for disposal.

5. It is a matter of record that in the proceedings instituted under Section 125 Cr.P.C., the learned Family Court had awarded interim maintenance @ ₹3,000/- per month. The said order remained unchallenged. In the proceedings under D.V.Act, the learned Metropolitan Magistrate (Mahila Court) vide its order dated 17.04.2014 directed Rajesh Yadav to pay ₹15,000/- per month to the complainant from the date of filing of the petition i.e. 22.10.2011. The said order was challenged by Rajesh Yadav in Criminal Appeal

No.07/2014 wherein the learned Appellate Court modified the maintenance amount from ₹15,000/- to ₹7,000/- per month. Aggrieved by the said orders both Rajesh Yadav and Shalini Yadav have filed the above revision petitions.

6. The relationship between the parties is not at dispute. Nothing material has emerged on record if Shalini Yadav is having any independent source of income. It has further come on record that presently she is staying in a rented accommodation and the rent being paid by her is approximately ₹3500/- per month. The dispute remains regarding quantum of maintenance to be awarded to Shalini Yadav.

7. Claim of Rajesh Yadav is that he has no sufficient income to pay ₹7,000/- being earning ₹6,000/- per month only as Supervisor in Raissuddin Garments, Jaipur. It is further claimed by him that he has no other movable or immovable property.

8. It was claimed by Rajesh Yadav that he had only one bank account i.e. Union Bank of India at Khanpur, Delhi. Shalini Yadav, however, before the Trial Court was able to show that besides the bank account Union Bank of India situated at Khanpur, Rajesh Yadav had two other accounts i.e. State Bank of India, Sangam Vihar and Oriental Bank of Commerce, Batra Hospital. She was able to produce the statements of accounts pertaining to the said two bank accounts which were not disputed or denied by Rajesh Yadav. Needless to say that Rajesh Yadav attempted to conceal the material facts before the Trial Court to suppress income being generated by him.

9. The Courts below rightly observed that Rajesh Yadav did not produce credible documents to show his exact income and rather he was held responsible for concealing the material facts. On perusal of statements of accounts of the two banks concealed by him, it reveals that various amounts of different value have been received by him in the said accounts. Some payments are even to the tune of ₹50,000/-. These payments are being received by Rajesh Yadav at regular interval. He has not explained and offered as to from where these payments are being received by him. Apparently, he is having some other source of income which he has concealed or suppressed. The plea that this amount was arranged by him to enable his parents to raise construction was disbelieved by the Courts below.

10. It is to be noted that the impugned order has been passed only as an interim measure and final order is yet to be passed after giving the parties an opportunity of being heard.

11. Considering the facts and circumstances, Rajesh Yadav's income, the expenses being incurred by the wife Shalini towards rented accommodation and other expenses, the reasonable amount of compensation shall be ₹10,000/- per month.

12. The revision petitions are disposed of with the directions that from the date of passing of the order, Rajesh Yadav shall pay ₹10,000/- per month to the wife Shalini Yadav as interim maintenance. For the period prior to the date of instant order, order of learned Addl. Sessions Judge in Criminal Appeal No.07/2014 dated 08.08.2014 shall remain in force.

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

(S.P.GARG)
JUDGE

APRIL 05, 2018 / tr

