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

+ CRL.M.C. 3698/2016 and Crl. M.A. 15470/2016

NITYANAND GIRI

..... Petitioner

Through: Mr. Abhimanyu Singh Khatri, Advocate

versus

SMT VINOD KUMARI

..... Respondent

Through: Mr. Ajay P. Tushir, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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21.08.2018

On the application of the first respondent in the course of her petition (CC no.1119/1/2015) under Section 12 of the Protection of Women from Domestic Violence Act, 2005, the Metropolitan Magistrate, by order dated 11.04.2016, passed an order fixing interim maintenance in the sum of Rs.30,000/- in favour of the children of the parties and Rs.10,000/- as interim maintenance in favour of the first respondent, the said amount being payable with effect from October 2015 (when the petition was filed) till final decision on the main case.

The petitioner / husband challenged the said order before the court of Sessions by Crl. A. 19/16, which was dismissed by order dated 03.06.2016.

The said orders were further challenged by the petition at hand invoking the inherent power and jurisdiction of this court under

Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC). When the matter was entertained and, by the first order dated 30.09.2016, the interim arrangement was modified as under :-

“...Learned senior counsel for the petitioner submits that having noted that learned MM wrongly noted the income of the petitioner as roughly Rs.20 lakhs per year though the gross total income was Rs.2,20,000/-, no modification in the order of grant of maintenance was done. With the income of Rs.2,20,000/- per annum the petitioner is in no position to pay a maintenance of Rs.40,000/- which includes Rs.30,000/- for children and Rs.10,000/- for the respondent. The learned Trial Court noted that there were withdrawals for a sum of Rs.25,000/- also from the bank account of the petitioner for which the explanation of the petitioner is that the same were deposited by his father to be given to the complainant and to her children and this amount was paid to the school for fee of the children.

Considering the facts and circumstances of the case till the next date of hearing the impugned order directing the petitioner to pay a monthly maintenance of Rs.40,000/- lump sum for the two children and the complainant is modified to a consolidated sum of Rs.25,000/- per month as maintenance of the two children and the complainant. The arrears of the maintenance from October, 2015 at the rate of Rs.25,000/- per month be paid within a period of three months and the regular maintenance on month-to-month basis on or before 5th of each month...”

The aforementioned order has continued to operate till date while the main petition is pending trial before the court of the Metropolitan Magistrate.

After some hearing, it is agreed by both sides that the above quoted

modified order dated 30.09.2016 may be adopted as the interim order of maintenance in favour of the first respondent and the children of the parties subject to final decision on the main petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005. Ordered accordingly.

In above view, no further directions in the petition are required. The same with pending applications are disposed of.

AUGUST 21, 2018
Yg

R.K.GAUBA, J