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

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Judgment delivered on:12.10.2018

+ CRL.M.C. 4670/2018

RAHUL RAJ

..... Petitioner

versus

MS DEEPTI AGGARWAL

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Manish Srivastava, Mr. Akhilesh Kumar and
Ms. Priyanka Verma, Advs.

For the Respondents : Mr. Sandeep Chandna, Mr. Chanpreet Singh, Ms.
Ikat Anand, Mr. Harinder K. Talwar, Advs.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

12.10.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl. M.A. 32053/2018 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.C. 4670/2018

1. The petitioner impugns order dated 21.08.2018 whereby a pre-condition of deposit of Rs. 15 lakhs has been imposed for issuance of notice in the appeal filed by the petitioner impugning order of the Family Court under Section 29 of the Protection of Women from

Domestic Violence Act, 2005 (hereinafter referred to as the DV Act), fixing interim maintenance.

2. Learned counsel relies on the judgment of the Division Bench of this Court in *Sabina Sahdev & Ors. Vs. Vidur Sahdev dated 09.07.2018, 251 (2018) DLT 245* to contend that there can be no pre-condition of deposit for issuance of notice and consideration of appeal.

3. Issue notice. Notice is accepted by learned counsel for the respondent. With the consent of the parties, the petition is taken up for hearing today.

4. The Division Bench of this Court in *Sabina Sahdev (supra)* has held as under:

*“*****Accordingly, we hold 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 Ld. MM. We further hold that the 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.*****”*

5. In view of the judgment of the Division Bench, the present petition is disposed of holding that the direction to the petitioner to

pre-deposit the arrears or part thereof is unsustainable. The direction is accordingly quashed. The Appellate Court shall issue notice without requiring the petitioner to pre deposit any amount.

6. However, it is clarified that issuance of notice shall not operate as an interim stay of the impugned order of the trial court directing payment of maintenance.

7. It is informed by learned counsel for the petitioner that he has already filed an application seeking stay of the impugned order which is pending consideration before the appellate court.

8. The appellate court would be at liberty to consider the application for stay in accordance with law without being influenced by anything stated in this order.

9. The petition is disposed of in the above terms.

10. Order *dasti* under signatures of the Court Master.

OCTOBER 12, 2018
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SANJEEV SACHDEVA, J