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

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Judgment delivered on: 02.05.2018

+ CRL.REV.P. 588/2017

SONIA GUPTA

..... Petitioner

versus

AJAY GUPTA

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Shailendra Babbar with Mr. Amitesh Giroti,
Advocates.

For the Respondent : Mr. Naresh Thanai with Mr. Kaushik Ahuja,
Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

02.05.2018

SANJEEV SACHDEVA, J. (ORAL)

CRL.REV.P. 588/2017 & Crl.M.A.18559/2017 (for interim relief)

1. The petitioner impugns order dated 22.05.2017, whereby, the application of the petitioner seeking interim maintenance has been rejected by the Trial Court.

2. Perusal of the impugned order shows that the sole reason for the rejection of the application given by the Trial Court, is that in the affidavit filed by the petitioner, the petitioner claimed to have spent

Rs.3,00,000/- per month on various heads and had engaged lawyers of repute, which was possible if the petitioner had corpus to pay them.

3. The Trial Court has overlooked the fact that the petitioner had contended before the Trial Court that she could pay the said amount of Rs.3,00,000/- by borrowing from friends and near and dear relatives. Further, the mere fact that a party engages counsel of repute does not *ipso facto* imply that the said party has sufficient funds. It is a known fact that counsels may appear for various reasons not limited to payment of fee.

4. The Trial Court has passed the impugned order without considering the merits of the case of the parties on mere on suppositions and assumptions.

5. In my view, the impugned order, by its very reasoning, is clearly unsustainable. Accordingly, the impugned order is set aside. The application is restored to the file of the Trial Court. The matter is remitted to the Trial Court to reconsider the application of the petitioner seeking interim maintenance, in accordance with law.

6. Request is made by the learned counsel for the respondent to place on record an additional affidavit.

7. Keeping in view of the facts that the petition was filed in the year 2014, the maintenance has been claimed since the year 2012, and that this is the second round of proceedings before the High Court.

The application for interim maintenance filed by the petitioner was earlier rejected and the matter was remitted by order dated 15.03.2018 of this court. In my view, the Court proceedings need to be expedited.

8. Accordingly, the respondent is granted five days time to file additional affidavit before the Trial Court with advance copy to the counsel for the petitioner, who may file response thereto within one week thereafter.

9. I am informed that the matter is listed before the Trial Court on 24.05.2018.

10. The matter be listed before the Trial Court on 24.05.2018. The Trial Court shall endeavour to dispose of the said application in accordance with law, on the said date. In case the Trial Court is not in a position to dispose of the application for interim maintenance on the said date, the Trial Court shall pass an order fixing *ad-interim* maintenance on the said date and thereafter expeditiously dispose of the application for interim maintenance.

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

12. Order *Dasti* under the signatures of the Court Master.

MAY 02, 2018/st

SANJEEV SACHDEVA, J