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

% *Date of Judgment: 26th July, 2018*

+ MAT.APP.(F.C.) 135/2017 & CM Nos. 27508/2017 (delay),
27507/2017 (stay)

BRAJENDRA KUMAR Appellant

Through: Mr Amit Kumar Singh and
Mr Rishlay Sahni, Advs

versus

KUMUD & ANR Respondents

Through: Mr Praveen Mahajan, Adv

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. Challenge in this appeal is to the judgment dated 22.04.2017 passed on an application filed by the respondent-wife under Section 125 of the Cr.P.C for grant of maintenance for herself and her minor son. The Family Court while allowing the application has fixed the maintenance @ Rs. 12,500/- each (total Rs. 25,000/-) from 2011 onwards.

2. In view of the decision rendered in the case of “*Manish Aggarwal vs Seema Aggarwal & Ors.*”, **FAO No. 388 of 2012 dated 13.09.2012**, more particularly, paragraph 26 which we extract below, the appropriate remedy would be filing a criminal revision. Paragraph 26 reads as under:-

“We, thus, conclude as under:

i. In respect of orders passed under Sections 24 to 27 of the HM Act appeals would lie under Section 19 (1) of the said Act to the Division Bench of this Court in view of the provisions of subsection (6) of Section 19 of the said Act, such orders being in the nature of intermediate orders. It must be noted that sub-section (6) of Section 19 of the said Act is applicable only in respect of sub-section (1) and not sub-section (4) of Section 19 of the said Act.

ii. No appeal would lie under Section 19 (1) of the said Act qua proceedings under Chapter 9 of the Cr.P.C. (Sections 125 to 128) in view of the mandate of sub-section (2) of Section 19 of the said Act.

iii. The remedy of criminal revision would be available qua both the interim and final order under Sections 125 to 128 of the Cr.P.C. under sub-section (4) of Section 19 of the said Act.

iv. As a measure of abundant caution we clarify that all orders as may be passed by the Family Court in exercise of its jurisdiction under Section 7 of the said Act, which have a character of an intermediate order, and are not merely interlocutory orders, would be amenable to the appellate jurisdiction under sub-section (1) of Section 19 of the said Act.”

3. At this stage, learned counsel for the appellant wishes to withdraw this appeal with liberty to file a criminal revision. Learned counsel for the appellant also prays that the interim order granted on 21.09.2017 may be continued for a period of three weeks as his client is stationed in Bangalore. Learned counsel for the respondents does not oppose the request. The appropriate court of jurisdiction will decide the matter afresh unaffected by any observations passed by this Court.

4. Accordingly, the appeal and the pending applications are disposed of.

G. S. SISTANI, J

SANGITA DHINGRA SEHGAL, J

JULY 26, 2018
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