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

+ CRL.M.C. 4873/2016 and Crl. M.A Nos.20193/2016, 16632/2017,
10929/2018 and 31471/2018

PAWAN ARYA

..... Petitioner

Through: Mr. Prashant Mendiratta and Mr. B.
Venkatraman, Advocates

versus

RICHA ARYA

..... Respondent

Through: Ms. Richa Dhawan, Standing Counsel
from DHCLSC

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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11.12.2018

On the application moved in the course of proceedings arising out of his petition (CC 71-V/12) instituted by the respondent (wife) invoking Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the petitioner (husband), the Metropolitan Magistrate, by her order dated 13.05.2016, directed the husband to pay to the wife an amount of Rs.10,000/- as interim maintenance for her besides Rs.10,000/- p.m. as interim maintenance for the child of the parties, she being in the care and custody of the wife, and Rs.10,000/- payable per month towards rental to arrange residential accommodation for the wife and the child. The challenge by the

husband to the said order by Crl. A. 219/2016 was not successful since the said appeal was dismissed by the court of Sessions, by judgment 05.11.2016, affirming the view taken by the court below.

Challenging both the said orders, present petition was filed invoking the inherent power and jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973.

After some hearing, the counsel for the petitioner fairly conceded that the impugned orders are tentative and interim in nature, the main petition seeking permanent order including in the nature of maintenance allowance being pending subject to inquiry where evidence is yet to be led. He submitted on instructions from the petitioner, who is present in person in the court, that the petitioner may be permitted to withdraw the present petition, he undertaking to abide by the interim order to above effect, without prejudice to his rights and contentions and subject to final decision on the main petition under Section 12 of the Domestic Violence Act, 2005, his requests being that he may be permitted to clear the arrears arising out of the said directions in six equal monthly instalments, the first monthly instalment of arrears being payable with the interim maintenance allowance in January 2019 and thereafter by each consecutive month and that there a need to allay his apprehension that the conclusions reached in this interim order may influence the final dispensation.

The counsel for the respondent, having taken instructions from the respondent, she also being present in person in the court,

submitted her consent to the arrears being cleared within six months as is the time sought. She agreed that the observations in the interim order cannot be treated as conclusive or binding.

It is trite that observations made while dealing with an interlocutory application are never treated as clinching, the decision on the final petition to be taken on the basis of evidence.

The petition and the applications filed therewith are dismissed as withdrawn. The petitioner shall remain bound by the undertaking given.

This court agrees with submissions that there is a need for expeditious conclusion of the inquiry before the Metropolitan Magistrate. The said court is requested to hold expeditious proceeding and decide the matter at an early date. Needless to add, this shall require full cooperation from both parties and their respective counsel. The counsel for the respondent (wife) submitted assurance on her behalf that no unnecessary adjournments will be sought.

Dasti under the signatures of the Court Master.

R.K.GAUBA, J.

DECEMBER 11, 2018

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