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

\+ MAT.APP.(F.C.) 262/2018 & C.M.42143/2018

JAPNA BAL ..... Appellant

Through: Ms.Rosemary Raju, Advocate

versus

RAVINDRA PRATHAP SINGH ..... Respondent

Through: Ms.Geeta Luthra, Senior Advocate with Mr.Pranav Malhotra and Mr.Altamish Siddiqui, Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% 28.11.2018

Challenge in this appeal is to the orders dated 03rd and 04th October, 2018, by which the right of the appellant-wife to lead evidence has been closed.

Ms.Geeta Luthra, learned Senior Counsel appearing for the respondent, submits that the conduct of the appellant would show that she is delaying the matter but the respondent will have no objection, if one final opportunity is granted to the appellant to complete her evidence. Counsel for the appellant submits that the appellant has already filed the affidavit of her father and she would file the affidavit of her sister within two weeks from today. Counsel further submits that as far as evidence of sister of the appellant is concerned, she would make an application before the Family Court for recording of her evidence by video conferencing, to which learned senior counsel appearing for the respondent has no objection.

Counsel for the appellant submits that another relief, which has been declined to the appellant is on an application filed for preserving the call records between the respondent and his paramour during the period of 2014 to

2018. Ms.Luthra opposes the prayer made by the counsel for the appellant for the reasons, firstly, that call records are preserved for a period of one year and secondly, the question sought to be raised by the appellant is beyond her pleadings and also that the petition for divorce was filed in the year 2014.

We are unable to accept the submission made by learned Senior Counsel for the respondent for the reason that the Family Court has rejected the application solely on the ground that the call records would not be able to show the nature of conversation between the respondent and the person to whom he has been calling. In our opinion, the reason for rejection of the prayer made in the application is erroneous. It is for the appellant to decide as to what benefit will accrue to her favour by relying on the call records. Accordingly, this part of the order is also set aside. Leave is granted to the appellant to summon witnesses for 8th, 9th & 10th January, 2019 for leading her evidence. All the legal objections sought to be raised by the respondent with regard to issue relating to call records are kept open. It is agreed that no adjournment will be sought by the appellant.

With the above directions, the appeal and the pending application being C.M.42143/2018 are disposed of.

G.S.SISTANI, J

JYOTI SINGH, J

NOVEMBER 28, 2018
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