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

+ **CRL.REV.P. 1117/2019**

SMT. MANJU VASHIST

..... Petitioner

Through: Mr.Sumit Kumar Khatri, Adv. with
Mr.Parv Passi, Adv.

versus

SH. ANIL KUMAR

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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23.10.2019

Crl. M.A. 38986/2019

Allowed, subject to all just exceptions.

Application is disposed of.

Crl.Rev.P.1117/2019 & Crl.M.A. 38987-88/2019

Vide the present petition, the petitioner seeks direction thereby to allow the present Crl. Revision against the impugned order/judgment dated 16.09.2019 passed by Shri Ashwani Kumar Sarpal, Ld.Judge Family Court, Shahdara District, Karkardooma Court, Delhi in C.C. NO.460/2018 titled as “Manju Vashisht Vs. Anil Vashisht” and modify the impugned order/judgment dated 16.09.2019 passed by Shri Ashwani Kumar Sarpal, Ld.Judge Family Court, Shahdara District, Karkardooma Court, Delhi and grant the arrears of maintenance considering the salary and pension of the respondent from the date of filing the petition U/s 125 Cr.P.C.

On perusal of the impugned order, it is stated thereby that in order to prove her case, petitioner examined herself as PW-1 only, whereas respondent examined himself as RW-1. Further, one bank official, Sh.Chetan from Canara Bank was examined as RW-2 to prove the account details of Akshey, son of the parties. The Record shows that first date of petitioner's evidence was fixed as 09.02.2007, but her affidavit of evidence was filed only on 30.03.2012, after a delay of more than 5 years . Record also revealed, that case was lingered on due to fault, negligence and inaction of the petitioner PW-1 and several times costs were also imposed upon her which were not waived despite requests made by her. On one such instance, the case was dismissed on 05.10.2011 by closing the evidence of the petitioner . Later on Sessions Court vide order dated 15.03.2012 in revision allowed two more opportunities to her to complete her evidence. Earlier to that Sessions Court vide order dated 17.01.2011 directed that trial be completed within six months, but it was delayed due to certain reasons including by not taking necessary steps by the petitioner.

Vide order dated 02.05.2012, the Court also observed that the petitioner is not interested in prosecuting the case but just wants to harass the respondent. After filing of her affidavit of evidence on 30.03.2012, she took time of about six years in completing her own evidence which was ultimately closed on 25.09.2018. Moreover, on number of dates, petitioner did not come to depose and costs were imposed several times. After closure of evidence of petitioner on 25.09.2018 after about 11 years from the first date of her evidence, she moved an application u/s 311 Cr.P.C. for examination of 11 more witnesses which was dismissed on 03.11.2018, but she was simply allowed to file the certified copies of previous litigations.

The said order was challenged by the petitioner in this court but her appeal was also dismissed. Accordingly, the Trial Court opined that there is no hesitation to say in view of above facts that this case was mostly delayed due to fault and negligence of the petitioner.

Counsel for the petitioner while arguing had admitted that the complaint was filed in the year 2009 and the maintenance order was passed vide order dated 16.09.2019. Moreover, the respondent was earlier working and earning ₹50,000/- and after retiring in the year 2015, he is receiving pension for an amount of ₹31,000/- plus.

In view of above, I find no illegality and perversity in the order passed by the Trial Court.

Finding no merit in the present petition, the same is, accordingly, dismissed.

The pending applications also stand disposed of.

SURESH KUMAR KAIT, J

OCTOBER 23, 2019
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