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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 325/2019**

RAKESH KALRA Petitioner
Through: Mr. Rajeev Krishan Sharma,
Advocate

versus

THE STATE Respondent
Through: Mr. Ashish Dutta, APP

CORAM:
HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER
% **19.03.2019**

CRL.M.A. 5985/2019

Allowed, subject to all just exceptions. The application is disposed of.

CRL.REV.P. 325/2019 & CRL.M.A. 5986/2019

1. This is a petition under Section 397 of the Code of Criminal Procedure, 1973 (Cr. PC) against the impugned order dated 23.10.2018 passed by the Principal Judge, Family Court, West District, Tis Hazari, Delhi.

2. The brief facts of the case, as stated, are that the petitioner and his wife got married on 27.7.1987. Out of the said wedlock, two sons were born. After marriage, the wife used to live at her matrimonial home for most of the time and she did not like the petitioner since the beginning. Soon after the marriage, the wife started treating the petitioner violently and used to abuse the petitioner and her in-laws and that she married the petitioner under her father's pressure. To maintain

peace and harmony, the parents of the petitioner gave a separate home to the petitioner and his wife. As the petitioner was deaf and dumb and unable to do any work, the petitioner, his wife and children were supported by the parents of the petitioner. The petitioner was tortured and beaten by his wife. In 2009, the wife threw the petitioner out of their house and now the petitioner is living with his younger brother and the wife is living in the house of the petitioner. In 2018, the petitioner's wife filed a petition under Section 125 of the Cr. PC before the Principal Judge, Family Court and vide order dated 23.10.2018, the Court directed the petitioner (respondent therein) to pay Rs.5,000/- per month as *ad interim* maintenance to his wife (petitioner therein).

3. Learned counsel for the petitioner, on the query of the Court has fairly admitted that the interim maintenance awarded to the petitioner's wife is Rs.5,000/- p.m., which is less than the minimum wages of an unskilled workman in Delhi. However, learned counsel for the petitioner submitted that the wife is living in the house, which is owned by the petitioner and that the behaviour of the wife is very cruel, hence, no maintenance should be granted to her. Learned counsel for the petitioner further submitted that the Trial Court may be directed to hear the petition afresh since the petitioner is deaf and dumb and he may be provided an opportunity of being heard.

4. I myself have heard the learned counsel for the petitioner

at length, but am not convinced with the arguments of the learned counsel for the petitioner and do not find any flaw or infirmity in the impugned order. However, it is clarified that the payment of interim maintenance is subject to the granting of final maintenance by the Trial Court and in case the petitioner's wife is held to be entitled to less or more maintenance, the same shall be subject to adjustment to that extent.

5. Learned counsel for the petitioner once again submitted that the petitioner should be given one more opportunity by the Trial Court to address arguments on the interim maintenance before the Trial Court after setting aside the impugned order. However, this Court does not deem it proper to set aside the impugned order and give any other fresh opportunity to the petitioner for arguments before the Trial Court on the question of grant of interim maintenance of Rs.5,000/- p.m., as granted vide order dated 23.10.2018.

6. Accordingly, the petition is dismissed. Pending application is also dismissed.

CHANDER SHEKHAR, J

MARCH 19, 2019/tp