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

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Judgment delivered on: 15.07.2019

+ CRL.REV.P. 624/2019

ANU RANI

..... Petitioner

versus

VISHWANTRA DHAMA

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Ankit Mutreja, Adv.

For the Respondent : Mr. Sheenu Chauhan, Adv.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

15.05.2019

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 12.03.2019 whereby the trial court has listed the matter for evidence.
2. Learned counsel for the petitioner submits that the trial court had earlier heard the arguments on interim maintenance application and listed the matter on 26.10.2018 for orders.
3. On 26.10.2018, directions were issued to the parties to file their income affidavits and the matter was adjourned to 29.11.2018. On

29.11.2018, the trial court noticed that the income affidavits of both the parties had been filed and thereafter the matter was listed for mediation, however, mediation was not successful and the trial court thereafter listed the matter for evidence.

4. Learned counsel for the petitioner submits that no order on interim maintenance application has been passed by the trial court and the matter has been fixed for evidence.

5. Learned counsel appearing for the respondent submits that maintenance has been awarded in the proceedings initiated by the petitioner under Domestic Violence Act and the petitioner has filed several proceedings against the respondent and the respondent has not filed any proceedings as such the petitioner is not entitled to grant of any maintenance.

6. Learned counsel for the petitioner submits that the respondent has not even complied with the orders passed under the Domestic Violence Act and the cheque was also dishonoured and thereafter the respondent has stopped appearing and has been proceeded exparte.

7. In my view, it is incumbent upon the trial court to consider the application for grant of interim maintenance. Whether the trial court grants or declines to grant interim maintenance would depend upon the facts and circumstances of a case but the trial court should not delay or refuse to decide an application seeking interim maintenance.

8. Final adjudication of the maintenance application is dependent upon parties leading evidence and may take some time. If the Trial Court declines or delays disposal of the application for grant of interim maintenance, it would defeat the very purpose of the enactment. Maintenance is granted to a wife/dependant who is unable to maintain herself and if there is delay in disposing of the application for grant of interim maintenance, the wife/dependent would be without any support and would not be able to survive and as such it is necessary that such an application is disposed of at the earliest.

9. The order sheet reveals that arguments had been heard by the trial court on interim maintenance application but the main case was listed for evidence without disposing of the application for interim maintenance. The Trial Court, as noticed above, should have decided on the plea of grant of interim maintenance with promptitude.

10. The objections raised by learned counsel for the respondent are pleas on merits of the matter, which are yet to be adjudicated upon by the trial court and are not relevant for the disposal of the present petition.

11. In view of the above, the petition is allowed. The trial court is directed to decide the application seeking interim maintenance within a period of one month from the next date of hearing before the trial court i.e. 02.08.2019.

12. It is clarified that this Court has neither considered nor

expressed any opinion on the merits of the contentions of either parties on the award of interim maintenance.

13. The petition is disposed of with the aforesaid directions.

14. Order *dasti* under signatures of the Court Master.

JULY 15, 2019

‘rs’

SANJEEV SACHDEVA, J

