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

+ **CRL.M.C. 1155/2018 & CrI.M.a. 4190/2018**

TANVEER KAPOOR

..... Petitioner

Through: Mr. A.K. De, Mr. Zahid Ali & Mr.
Ananya De, Advs.

versus

JOLLY SINGH

..... Respondent

Through: Mr. Satyendra Kumar & Ms. Sunita
Bhardwaj, Advs.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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12.02.2019

On the petition (CC no. 637835/2016) of the respondent under Section 12 of Protection of Women From Domestic Violence Act, 2005, the Metropolitan Magistrate, by her order dated 28.06.2017, directed the petitioner husband to pay Rs. 50,000/- per month as interim maintenance which is inclusive of rent for alternative accommodation. The petitioner has challenged the said order in the court of Sessions by CrI. A. 289/2017. The Additional Sessions Judge, by order dated 16.02.2018, directed him to deposit 33 per cent of the interim maintenance allowance as a pre-condition to the appeal to be heard. Challenging the said order, he brought the present petition under Section 482 Cr.P.C. submitting that the directions are beyond his means or financial resources, he insisting that his income have been reduced from Rs. 1,67,361/- in assessment year 2012-13 to Rs. 30,978/- in

the assessment year 2013-14. It is brought out at the hearing that due to non-payment of the maintenance allowance, the petitioner was earlier arrested and sent to civil prison for some time. Interim maintenance order is being enforced while the petition has remained pending. The directions for pre-deposit of portion of interim maintenance were passed by the first appellate court, the appeal continues to be pending, it having not been taken up for hearing on merits.

After some hearing, the counsel for the respondent fairly conceded that the directions in the impugned order for pre-deposit of certain portion of the arrears as the condition to the appeal to be heard may be set aside, the respondent being inclined to argue the appeal on merits without insisting on such pre-deposit. Ordered accordingly.

The directions in the impugned order of the first appellate court for pre-deposit are vacated with the consent of the respondent.

The first appellate court will make all endeavour to decide the appeal on merits at an early date.

With these directions, the petition and the application filed therewith are disposed of in above terms.

R.K.GAUBA, J

FEBRUARY 12, 2019
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