

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

Date of Order: January 09, 2019

+ **Crl.M.C. 1124/2018 & Crl.M.A. 4043/2018**

SUHAIL KHAN

..... Petitioner

Through: Mr. Anurag Jain & Ms. Ayushi
Sharma, Advocates

Versus

STATE & ANR.

..... Respondents

Through: Ms. Neelam Sharma, Additional
Public Prosecutor for respondent No.1-State
Mr. Rajeev Khosla & Ms. H.S.Sodi, Advocates
for respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Received on transfer.

In execution proceedings pertaining to arrears of interim maintenance and rent, concurrent finding returned by the courts below are that petitioner's plea of adjustment of ₹8,50,000/- cannot be gone into, as the executing court cannot go beyond the judgment of 2nd June, 2017.

Petitioner's counsel relies upon Agreement of 11th October, 2015 to submit that admitted amount of ₹8,50,000/- paid to respondent ought to be adjusted while executing judgment of 2nd June, 2017.

Upon hearing and on perusal of impugned judgment of 2nd June, 2017 and Agreement of 11th October, 2015, I find that the executing court has rightly concluded that it cannot go beyond the judgment of 2nd June, 2017. However, it *prima facie* appears that observations made in the judgment of 2nd June, 2017 are required to be tested in the face of Agreement of 11th October, 2015. In the peculiarity of this case, while dismissing this petition and the application, petitioner is permitted to avail of the remedies against judgment of 2nd June, 2017 within a period of four weeks from today.

With aforesaid observations, this petition and application are disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 09, 2019

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