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

+ **MAT.APP.(F.C.) 60/2017 & CM APPL. 13194/2017 (stay)**

KAMAL KHURANA

..... Appellant

Through Mr. Prabhjit Jauhar, Ms. Aishwarya and
Ms. Upasna Goel, Advocates

versus

REENA KHURANA

..... Respondent

Through Mr. Sumit Gaba, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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28.01.2019

The challenge in this appeal is to an order dated 18.02.2017 passed by the Family Court on an application filed by respondent/wife under Section 24 of the Hindu Marriage Act seeking maintenance for herself and her minor daughter.

It is not in dispute that post passing of this order the substantive petition filed under Section 9 of the Hindu Marriage Act by the husband stands dismissed as withdrawn. According to the appellant all the arrears of the maintenance arising out of the impugned order stands paid, which is disputed by the respondent.

Mr.Jauhar points out that now the respondent has initiated proceedings under Section 125 Cr.P.C. He submits that the impugned order, which according to him has not been passed in accordance with law, would come in his way while

making submissions in proceedings under Section 125 Cr.PC. and the concerned court may be influenced by the observations and findings in the order dated 18.02.2017.

Mr. Jauhar further submits that while fixing maintenance, the Family Court did not deduct the Income Tax, Compulsory Provident Fund deduction and the deduction on account of National Pension Policy Scheme as well as the amount being paid by him under the order of maintenance passed against him regarding his parents.

Counsel for the respondent, however, disputes the same. He submits that deductions were taken into account while passing the order.

However, both the parties agree that while hearing the application under Section 125 Cr.P.C., it would be open for both the parties to raise such grounds as are available, in accordance with law and the order of 18.02.2017 will not stand in the way of appellant in raising the grounds which may be otherwise available to him.

With the above observations, appeal along with pending application is disposed off and interim order stands vacated.

G.S.SISTANI, J

JYOTI SINGH, J

JANUARY 28, 2019

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