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

+ CRL.REV.P. 536/2016 & CrI.M.A.12652/2016

AMIT SINHA ..... Petitioner  
Through: Mr. Gaurav Singh, Advocate.

versus

SHILPI SINHA ..... Respondent  
Through: Mr. Satish Tamta, Sr. Advocate with  
Mr. Anuj Tomar, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**ORDER**

% **05.04.2019**

1. Petitioner seeks setting aside of order dated 09.03.2016 whereby the application of the petitioner seeking setting aside of ex parte order dated 27.08.2014 was rejected.

2. On 27.08.2014 ex parte judgment was passed against the petitioner directing petitioner to pay maintenance of Rs.10,000/- per month from the from the date of filing of the petition i.e. 19.10.2013. Petitioner was proceeded ex parte on 18.02.2014. As per the petitioner, petitioner has been paying the maintenance amount of Rs.10,000/- per month, however, there are certain arrears.

3. Learned counsel for the petitioner submits that the parties were in mediation and attempting to resolve their disputes and that was the reason why the petitioner failed to appear before the Trial Court and was accordingly proceeded ex parte.

4. Learned counsel for the petitioner submits that the petitioner seeks only one opportunity to place his defence on record and to contest the petition on merits.
5. Learned senior counsel for the respondent submits that respondent has no objection to petitioner being given opportunity to contest the petition on merits, provided petitioner continues to pay interim maintenance of Rs.10,000/- per month and also clears the entire arrears.
6. Learned counsel for the petitioner is agreeable to the same, however, prays that he may be given some time to clear the arrears.
7. In view of the above, impugned order proceeding ex parte against the petitioner is set aside. Petitioner is directed to file his written submission along with the income affidavit in terms of the judgment of this Court dated 14.01.2015 in FAO 369/1996 in *Kusum Sharma vs. Mahinder Kumar Sharma* within four weeks from today.
8. As agreed, petitioner shall continue to pay interim maintenance of Rs.10,000/- per month till the disposal of the application under Section 125 Cr.P.C of the respondent by the Trial Court. Petitioner shall also clear the entire arrears of maintenance in 9 equal instalments. Petitioner shall file, before the Trial Court, the calculation sheet of the amount payable calculated at the rate of Rs.10,000/- per month with effect from 19.10.2013 till date and also the amount paid by the petitioner till date to the respondent.

9. The parties shall appear before the concerned Trial Court for directions on 23.04.2019.
10. The interim maintenance fixed by this Court shall be subject to further orders to be passed by the Trial Court at the stage of final disposal of the application under Section 125 Cr.P.C. filed by the respondent.
11. It is clarified that this Court has neither considered nor returned any finding on the merits of the case of either parties.
12. Order *Dasti* under signatures of the Court Master.

**SANJEEV SACHDEVA, J**

**APRIL 05, 2019**

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