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

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Judgment delivered on: 10.04.2019

+ CRL.REV.P. 923/2017

ARUN KUMAR

..... Petitioner

versus

THE STATE (GOVT. OF NCT OF DELHI) & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Mobin Akhtar, Adv.

For the Respondent : Ms. Kusum Dhalla, Addl. PP for the State

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns judgment dated 26.10.2017 whereby maintenance has been awarded to respondent no. 2 at Rs. 4000/- per month and respondent no. 3 (minor child) at Rs. 2500/- per month, besides litigation expenses @ Rs. 11,000/-.

2. Learned counsel for the petitioner submits that the trial court has erred in not appreciating the fact that the mother of the petitioner is also dependent upon the petitioner and as such the trial court could not have granted half of the income to the respondents. He further submits that the petitioner has recently lost his job.

3. Learned counsel for the respondent submits that the trial court has rightly held that the only dependent members upon the petitioner were the respondents i.e. his wife and child. He further submits that the mother of the petitioner had filed a Suit for Permanent Injunction against the Petitioner and Respondent no. 2 from entering her premises.

4. He submits that in the evidence before the trial court, it was established that the mother was living with the younger son and said fact is also admitted by the petitioner in these proceedings. He submits that the income of the Petitioner was far in excess of Rs. 13,296/- as alleged by him but he also had income from other sources which were not disclosed. It is alleged that petitioner was also engaged in the property business.

5. It is the case of the petitioner that the income of the petitioner was Rs. 13,296/- as on the date of passing of the impugned order;

6. Even if one were to take the amount as alleged by the petitioner as his income, the family of the petitioner comprises of himself, his wife and the minor child who is studying in a school.

7. The trial court has found as a matter of fact, after the parties had led their evidence that the only dependent upon the petitioner were wife and the minor child.

8. If the income of the petitioner is divided in four parts i.e. two

parts for the petitioner and one each for the wife and minor child, the amount apportioned in favour of the respondents is Rs. 6500/-, which is exactly the amount that the trial court has assessed by the impugned order.

9. In view of the above, there is no infirmity in the view taken by the trial court in apportioning the income of the petitioner in the manner it has done.

10. It is alleged by learned counsel for the petitioner that respondent is running a boutique. However, it is conceded by learned counsel for the petitioner that this plea was neither raised before the trial court nor established at trial. Accordingly said averment cannot be looked at by this Court to test the correctness of the impugned judgment.

11. In case the petitioner has lost his job or there are any changed circumstances, it is open to the petitioner to take recourse to such legal provision as may be available in law.

12. In find no infirmity in the impugned judgment or any merit in the petition.

13. The petition is accordingly dismissed.

APRIL 10, 2019/‘rs’

SANJEEV SACHDEVA, J