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

+ **CRL.REV.P. 648/2019**

PANKAJ GANDHI

..... Petitioner

Through Mr Kartikay Mathur, Advocate.

Versus

CHARU GANDHI

..... Respondent

Through Mr Rajesh Baweja, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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28.01.2020

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 22.04.2019 passed by the learned ASJ, Tis Hazari Courts in Crl. Appeal No. 249/2017 captioned '*Charu Gandhi v. Pankaj Gandhi*'.
2. By the impugned order, the leaned ASJ had modified the maintenance awarded by the learned M.M., by an order dated 26.09.2016 in C.C. No. 555659/2016, from ₹10,000/- per month to ₹15,000/- per month.
3. It is seen that the petitioner had volunteered to make payment for the purchase of books and stationery for their children before the beginning of the new class. He had also agreed to pay the school fees. Apparently, a statement showing his willingness to make payment for the purchase of books and stationery for his children before the beginning of a fresh semester of new class was recorded in the order dated 15.02.2014. Thereafter, the Trial Court considered the claim of the respondent for her

maintenance as well as maintenance for their two children. By an order dated 26.09.2016, the Trial Court concluded that the respondent was not entitled to any maintenance for various reasons stated therein. However, the Trial Court was also of the view that the children would be entitled to maintenance and accordingly, directed that the petitioner pay interim maintenance at ₹10,000/- per month be paid in favour of the children.

4. The petitioner has no grievance against the said order and has accepted the same. Thereafter, the respondent filed another fresh application, *inter alia*, praying that the petitioner be directed to pay school expenses and school fees, as was volunteered by him. She stated that she had no income; but the respondent had a share in a family business of a flourishing restaurant in Karol Bagh. She also stated that the petitioner had a separate business of electronics in Gaffar Market, Karol Bagh and was earning approximately ₹5,00,000/- lakhs per month. Although the petitioner accepted that he was involved in the family business, however, he stated that his income was ₹25,000/- to ₹29,000/- per month.

5. The Trial Court considered the application and rejected the respondent's application. The Court held that the amounts of ₹10,000/-, as awarded against the petitioner, was towards maintenance of the children which would include food, clothing, shelter and other expenses. Aggrieved by the said order dated 05.08.2017, the petitioner preferred an appeal before the learned ASJ (Appeal No. 249/2017) which was allowed by an order dated 22.04.2019. The interim maintenance as awarded for the children was enhanced from ₹10,000/- per month to ₹15,000/-. However, it was clarified that the same would include all expenses of the children, including school fees. Aggrieved, the petitioner has impugned the said order in this petition.

6. This Court finds no infirmity with the impugned order dated 22.04.2019. On 15.02.2014 – much prior to the order awarding interim maintenance of ₹10,000/- per month in favour of the children of the parties – the petitioner had volunteered that he shall pay all costs of books, stationery and other expenses and this was recorded in the order dated 15.02.2014 passed by the learned MM. In view of the above, it would not be unreasonable to interpret that the order dated 26.09.2016 directing the petitioner to pay the maintenance of ₹10,000/- was in addition to the school expenses as already agreed to be paid by the petitioner. This Court had also pointedly asked the learned counsel appearing for the petitioner whether the petitioner would be willing to pay ₹10,000/- per month as maintenance in addition to the school expenses, however, learned counsel for the petitioner candidly states that the petitioner would rather pay ₹15,000/- per month as a comprehensive payment for the maintenance of his children, rather than ₹10,000/- plus school expenses.

7. In view of the above, the order passed by the learned ASJ does not warrant any interference. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

JANUARY 28, 2020

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