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

+ **CRL. REV. P. 1090/2019**

JATIN SONI

..... Petitioner

Through: Ms Rosemary Raju, Advocate.

versus

EKTA ARORA SONI

..... Respondent

Through: Ms Sunita Arora, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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28.05.2020

[Hearing held through video conferencing]

CRL.M.A.6870/2020

1. For the reasons stated in the application, the same is allowed.
2. The application is disposed of.

CRL.M.A.6869/2020

3. This is an application for early hearing.
4. For the reasons stated in the application, the same is allowed.
5. The application is disposed of.

CRL. REV. P. 1090/2019

6. With the consent of the parties, the matter is taken up for hearing.
7. The petitioner has filed the present petition, *inter alia*, impugning an order dated 18.09.2019 passed by the learned Family Court directing that the petitioner pay a monthly interim maintenance of ₹15,000/- to the respondent.

8. The learned counsel appearing for the petitioner submits that the impugned order was passed without affording the petitioner an opportunity to be heard and without considering the income of the petitioner. She further submits that the said order was passed as the petitioner's counsel had not appeared on the said date and the proxy counsel had incorrectly stated that the petitioner could not be contacted. She has also drawn the attention of this Court to call logs of the petitioner and on the strength of the same submits that the petitioner was in touch of his counsel and the statement made to the court that he was not contactable, was incorrect. She states that unfortunately the petitioner's counsel had informed him that he could not appear on the said date and would seek an adjournment. She states that the petitioner also could not appear on that date due to certain official commitments but he was assured by his counsel that no adverse orders would be passed.

9. The petitioner states that prior to the said hearing, he had signed all documents including his reply as well as an affidavit of income.

10. Ms Arora, learned counsel appearing for the respondent stoutly disputes the aforesaid contention. She states that although the impugned order dated 01.08.2019 reflects that Ms Manisha Tiwari was proxy counsel for the petitioner, infact, she had accepted the petitioner's *vakalatnama*, which was on record and she could not have been considered as a proxy counsel. She also states that *vakalatnama* was jointly accepted by Ms Manisha Tiwari and her husband. Thus, the entire story that the petitioner's counsel did not appear and had sent the proxy counsel to appear on his behalf is manifestly erroneous.

11. The contentions advanced by Ms Arora appears merited. However, it

is apparent that the Learned Family Court did not have the occasion to consider any affidavits regarding the income of the petitioner nor did the learned Family Court examine his qualification and employment status.

12. In view of the above, this Court considers it apposite to set aside the impugned order and remand the matter to the learned Family Court to consider it afresh. It is so directed.

13. This Court also considers it apposite that in the meantime, the petitioner pays a certain ad interim maintenance to the respondent. The learned counsel appearing for the petitioner agrees that the petitioner shall pay a sum of ₹5,000/- per month from 01.08.2019 till the respondent's application for interim maintenance is decided by the learned Family Court. She also states that the arrears from 01.08.2019 shall be paid in three equal monthly instalments and the first instalment would be paid on 01.06.2020. The petitioner is bound down to the said statement made on his behalf.

14. It is clarified that this Court has not expressed any opinion on the merits of the respondent's claim and nothing stated in this order should be construed as such.

15. The learned Family court is requested to consider and dispose of the respondent's application for interim maintainance as expeditiously as possible.

16. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

MAY 28, 2020
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