



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

Reserved on : 13.04.2023

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Pronounced on : 04.08.2023

+ **CRL.REV.P. 284/2023 & CRL.M.A. 7066/2023**

MANISH KUMAR

..... Petitioner

Through: Mr. Brijesh Sharma, Advocate with
petitioner in person.

versus

THE STATE AND ANR

..... Respondent

Through: Ms. Priyanka Dalal, APP for the State
with SI Manju Chahar and SI
Deepika, P.S.Dabri.

Mr. Vikas Bhardwaj and Mr. Rajan
Kumar, Advocates for complainant.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. The present petition has been filed by petitioner under Section 397/401 read with Section 482 Cr.P.C for setting aside/quashing the impugned order dated 13.12.2022 passed by Ld. Judge, Family Court-02, South West, Dwarka, New Delhi, by virtue of which, the petitioner herein was directed to pay ad-interim maintenance @ of Rs.2000/- per month till further order.



2. It is submitted by the learned counsel for the petitioner that the petition filed by the respondent no.2 under Section 125 Cr.P.C is not maintainable as the petitioner had never married the mother of the respondent no.2 and no document with regard to marriage of mother of respondent no.2 with the petitioner had been filed on record and even the date of marriage was not disclosed in the maintenance petition filed below. It is further submitted that the learned Family Court has failed to appreciate that the petitioner is not the biological or the natural father of respondent no.2 and the respondent no.2 does not fall under the category of legitimate /illegitimate child of the petitioner, therefore, the petitioner is under no obligation to maintain the respondent no.2.

3. It is further submitted by the learned counsel for the petitioner that the mother of respondent no.2 had filed an FIR bearing no.287/2020 under Section 376 IPC and in her statement she had stated that petitioner had committed the alleged offence on 11.08.2019 and whereas as per the MLC annexed with the chargesheet, the date of LMP of mother of respondent no.2 is 26.08.2019 which clearly shows that mother of respondent no.2 was not pregnant and the mother of respondent no.2 cooked up a false story.

4. It is further submitted by the learned counsel for the petitioner that the mother of respondent no.2 had made unreasonable financial demands from the petitioner and when the petitioner was unable to fulfil those demands, the above-mentioned false and frivolous FIR was registered. It is further submitted that the mother of respondent no.2 had purchased two properties from the amount received by her from the petitioner, one in Jaipur and other in Bihar wherein mother of respondent no.2 had disclosed the name



of her husband as Dheeraj Jha and not that of the petitioner herein who is Manish Kumar, so it is argued that as per the mother of respondent no.2 the petitioner is neither biological nor natural father of respondent no. 2.

5. It is further submitted by the learned counsel for the petitioner that since the petitioner was unable to file the written statement before the Family Court and more time was sought, the learned Judge, Family Court without any rhyme or reason granted ad-interim maintenance @ of Rs. 2000/- per month till further orders.

6. In the instant case, the State is respondent no.1 and is a proforma party and no relief has been claimed against respondent no.1, so there was no occasion for the State to address the arguments or file any reply in this regard. However, the counsel appearing for the respondent no.2 at the outset submitted that the order under challenge in the present petition is an interlocutory order and the revision against an interlocutory order is not maintainable.

7. It is further submitted by the learned counsel for the respondent no.2 that all the contentions raised by the counsel for the petitioner are disputed questions of facts and law and would require evidence. It is further submitted that the learned Family Court has only awarded a sum of Rs.2000/- per month which is a meagre amount as an interim measure for the minor child.

8. The order under challenge in the present petition is the order dated 13.12.2022 which reads as follows:-

“Respondent seeks some more time for filing reply with say that due to death in the family of counsel WS could not be filed.



Let WS/reply be filed within four weeks with advance copy to opposite party, who shall be at liberty to file replication on NDOH.

Ld. Counsel for petitioner request for grant of ad-interim maintenance.

Respondent is directed to pay ad-interim maintenance @ of Rs.2000/- per month till further order.

List the matter for completion of pleadings, framing of issues and arguments on interim maintenance application on 21.04.2023.”

9. The perusal of the above order shows that the order is nothing but a step forward towards the advancement of the case. By virtue of this order no substantial rights of the parties have been decided and since the petitioner herein has failed to file the written statement, opportunity was granted to file the written statement and for completion of the pleadings and in the meanwhile, the petitioner was directed to pay an amount of Rs.2000/- per month as ad-interim maintenance till further orders. Therefore, no rights have been finally determined by the Family Court.

10. The impugned order dated 13.12.2022 is an interlocutory order and no revision lies against an interlocutory order. Reliance can be placed upon the judgment passed by the Hon'ble Supreme Court in ***Sethuraman vs. Rajamanickam, (2009) 5SCC 153*** and also the judgment dated 04.04.2022 decided by the Coordinate Bench of this Court in ***B.B. Lal Aggarwal vs. The State Govt of Delhi & Anr. (Crl. M.C. 953/2022)***, wherein, it was observed that no revision lies against an interlocutory order.

11. In view of the discussions mentioned hereinabove, since the impugned order is an interlocutory order, no revision lies, the present revision petition is, therefore, dismissed. Pending application, if any, stands



disposed of. However, the other contentions raised by the counsel for the petitioner are beyond the scope of this petition as they raise disputed questions of fact and law which can only be decided during the course of trial.

RAJNISH BHATNAGAR, J

AUGUST 04, 2023/ib