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

\+ CRL.REV.P. 760/2023, CRL.M.A. 19107/2023

DINESH CHAND TIWARI ..... Petitioner

Through: Mr. Deepak Rana, Mr.Surender Gupta, Mr. Binod Kumar Saw, Advs.

versus

STATE THE CHIEF SECRETARY & ORS. ..... Respondents

Through: Mr. Rajneet Singh, Advs. for R-2 & 3.

% *Date of Decision: 24th July, 2023*

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 19108/2023 (Exemption)

Exemption is allowed subject to all just exceptions.

CRL.REV.P. 760/2023

1. The revision petition has been filed under Section 397/401 Cr. PC challenging the impugned order dated 22.03.2023 passed by learned Judge, Family Court in case Maintenance No. 26/2020 whereby

learned Trial Court has passed an interim maintenance in the sum of Rs. 9,600/- per month. The relevant paragraph of the impugned order reads as follows:

> *"14. Now for the purpose of disposal of the interim maintenance application, the income of the respondent needs to be assessed. Respondent in his affidavit has claimed his income to be Rs. 11,300/- per month. He has placed on record the bank statement of account for the period 01.01.2020 to 30.11.2022, being maintained by him at ICICI bank. On perusal of his bank statement, it is revealed that he has an account at Standard Chartered bank HS the statement of account reveals a credit entry of Rs. 5000/- made on 04.01.2020. Similarly, on 06.02.2020 a sum of Rs. 3,000/-was transferred from UCO Bank and on 02.04.2020 a sum of Rs. 10,000/- was transferred from the account of Indian Overseas bank. It so appears that he has a UPI account at State Bank of India as well as on 11.09.2020 a sum of Rs. 10,000/- was deposited in his ICICI bank account. On03.05.2021 a sum of Rs. 40,000/- was deposited in his ICICI bank which was immediately transferred in an account maintained at UCO Bank. Clearly the respondent has not come before this court with clean hands and has withheld his true income and cleverly chosen not to file complete details of his account. The submission of the counsel for the respondent that one of the account was closed in the year 2021, the other is lying defunct and the third account belongs to the mother, clearly shows that complete set of documents have not been filed by the respondent. The respondent cannot pick and chose the details of account he wants to file or not. In his detailed affidavit he has not disclosed that he has three bank accounts. There is not even a*

single credit entry which could suggest that he is received Rs. 11 ,300/-per month. Thus, even if a conservative view is taken the income of the respondent cannot be less than Rs.24,000/- per month."

2. The bare perusal of this para makes it clear that the learned Trial Court assessed the income of the petitioner/respondent as Rs.24,000/- per month. However, no reasoning has been given by the learned Trial Court to assess the income of the petitioner as Rs.24,000/- per month. Any judicial order to sustain must have reasoning. The order devoid of reasoning cannot stand in the eyes of the law.
3. I consider that the reasons are totally absent in the impugned order. Hence, the matter is remanded back to the learned Trial Court for reconsiderationof the question of interim maintenance. Since the matter is remanded back, till the time the issue of interim maintenance has been decided, the respondent may move an application for fixing the ad-interim maintenance till the application for interim maintenance is decided by the learned Trial Court.
4. However this Court has not gone into the merits of the case and nothing expressed herein shall tantamount to be an expression of the merit of the case.
5. Parties are at liberty to raise all rival contentions before the learned Trial Court.
6. In view of the above, the present petition along with the pending

application stands disposed of.

DINESH KUMAR SHARMA, J

JULY 24, 2023
Pallavi