



2023:DHC: 7771



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

% Judgment delivered on: 18.10.2023

+ **CRL.REV.P. 1111/2023****JYOTI & ANR**

..... Petitioner

versus

DEEPAK PANCHAL

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. R.N. Dubey and Mr. Tarun Garg,
Advocates

For the Respondent : None

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CRL.M.A. 28582/2023**

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

CRL.REV.P. 1111/2023 & CRL.M.A. 28583/2023 (Delay)

3. This is a criminal revision petition under Sections 397/401 read with Section 482 Cr.P.C., 1973 challenging the order dated 19.04.2023 passed by learned Judge, Family Court-01, Shahdara, Karkardooma



Courts, Delhi in MT No. 733/2019 titled ***Jyoti & Anr vs. Deepak Panchal***, whereby under application under Section 125(3) Cr.P.C., 1973, the learned Family Court though had allowed the interim maintenance of Rs.10,000/- in favour of the petitioner, however, simultaneously declined to grant interim maintenance to the son of the petitioner, on the ground that the son of the petitioner has not been adopted by the respondent herein.

4. Learned counsel appearing for the petitioners places on record over the bench, judgment of the learned Division Bench of this Court in ***Rajiv Kumar Yadav vs. Manju Devi*** in MAT APP. (FC) No. 62/2023 which was rendered on 01.03.2023, whereby the learned Division Bench had noted as under:-

“10. It is not in dispute that the appellant was aware of the first daughter of the respondent from the first marriage at the time when he solemnized the marriage with the respondent. When a person solemnizes a marriage with a person who already has a child, said person shall be presumed to have undertaken the responsibility of the child and also cannot later be permitted to contend that the child is not his/her responsibility.”

5. On the query put by this Court, learned counsel fairly admits that the present judgment was not placed before the learned Judge, Family Court for its consideration.

6. He further submits that an application under Section 127(3) Cr.P.C., 1973 seeking modification/clarification of the order has been filed.

7. In view of the aforesaid submissions, this Court is of the



2023:DHC: 7771



considered opinion that rather than interfering in the impugned order at the moment, keeping in view the fact that the judgment of learned Division Bench, as aforesaid, was not placed before the learned Judge, Family Court, it would be appropriate in the circumstances of the case, to direct learned Judge-01, Family Court to expeditiously dispose of the application under Section 127 (3) Cr.P.C., 1973, filed by the petitioners, after considering the ratio laid down by learned Division Bench in the aforesaid judgment, preferably with a period of two months from the date of communication of this order.

8. Learned counsel also submits that the arrears, if any, by way of the impugned order passed by the learned Judge, Family Court, be also directed to be cleared by the respondent within a period of one month from today.

9. With the aforesaid directions, the petition and pending application stand disposed of.

10. A copy of order be sent to the concerned Court for information and compliance.

11. *Dasti.*

TUSHAR RAO GEDELA, J.

OCTOBER 18, 2023

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