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

+ CRL.REV.P. 794/2022, CRL.M.A. 24251/2022

SH. ADESH KUMAR

..... Petitioner

Through: Mr. Ravinder Kumar Yadav, Mr.
Vinay Mohan Sharma, Ms.
ArtiAnupriya, Mr.Kartikey and Mr.
Paras Juneja, Advs.

versus

STATE AND ANR. & ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP for the State
Mr. Raj Bir Bansal, Ms. Ritu Nagar,
Advs. for R-2

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Date of Decision: 02.08.2023

**CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 20304/2023 (exemption)

Exemption is allowed subject to all just exceptions.



CRL.REV.P. 794/2022

1. The present petition is filed under Section 397 & 401 of Cr.P.C. challenging the impugned order dated 01.06.2022 passed by learned Additional Sessions Judge, (SFTC), Dwarka Courts, New Delhi in Criminal Appeal No., 155/2021 titled as “**Adesh Kumar v. Priyanka Verma**” whereby the appeal filed against the order dated 22.10.2021 of learned MM(women Court), District South West, Dwarka Courts, New Delhi, directing the revisionist to pay a sum of Rs.25,000/- per month in favour of the child from the date of filing of petition i.e. 08.01.2018 in complaint Case No. 1564/2018 titled as “**Priyanka Verma V. Adesh Kumar**” was dismissed. The learned Additional Session Judge found no illegality in the order of the learned Trial Court and dismissed the same.
2. Learned counsel for the petitioner submits that the learned Trial Court and the learned Appellate Court have fallen into a grave error by assessing the income @ of Rs.1,25,000/- without any basis. Learned counsel for the petitioner submits that the respondent No.2/wife is gainfully employed as an Assistant Professor in the Department of Physics at Moti Lal Nehru College, University of Delhi, New Delhi since 24.07.2013.



3. Learned counsel further submits that even as per affidavit filed by the respondent No.2, the monthly expenditure of child is not beyond Rs.5,500/- per month, therefore the interim maintenance @ of Rs. 25,000/- is totally baseless. It has further been submitted that even in the passbook, the entries which have been relied upon by the learned Trial Court is basically the loan taken by the petitioner. Learned counsel submits that on the similar facts, interim maintenance @ 5,500/- per month was granted by the Family Court. It is therefore, the present order is liable to be set aside.
4. Learned counsel for the respondent has vehemently opposed the revision petition and submits that the same is liable to be dismissed.
5. Learned Trial Court while assessing the income of Rs.1,25,000/- *inter-alia* held as under:

“On the other hand, it was submitted on behalf of respondent that he used to work in M/s Jabong as an Engineer but had to resign in 2017 after which he worked with M/s Channel Web Consultant Pvt. Ltd. as a Software Developer. The offer letter has been placed on record which discloses that the respondent was initially offered as salary of Rs.1,25,000/- per month.”

6. The scope of revisional jurisdiction under section 397 of CrPC is well settled that while exercising its revisional jurisdiction the Court cannot reconsider or reassess the evidence in order to reach a different conclusion. The Court can only examine as to the regularity, correctness, legality, or propriety of the challenged decision or



order. In ***Amit Kapoor v. Ramesh Chander*** (2012) 9 SCC 460 : (2012) 4 SCC (Civ) 687 : (2013) 1 SCC (Cri) 986] , the Hon'ble Supreme Court elucidated on the revisional power of the Court under Section 397 and inter alia held as under:

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.



13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforestated. Even framing of charge is a much advanced stage in the proceedings under Cr. P.C.”

7. It is a settled proposition that the revisional jurisdiction is a very limited jurisdiction. The Court can interfere only if there is any illegality, infirmity or perversity in the order of the learned Trial Court. Learned Trial Court as well as learned Appellate Court have relied upon the documents to assess the income of Rs.1,25,000/- per month. It is pertinent to mention here that no maintenance has been awarded to the wife as she is gainfully employed. The maintenance has only been awarded to the child and this includes the rental charges for the suitable accommodation as well.



8. In view of the facts and circumstances of the present case, I consider that there is no illegality, infirmity or perversity in the impugned order. Therefore, the present petition is dismissed accordingly.

DINESH KUMAR SHARMA, J

AUGUST 2, 2023/Pallavi