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

+ **CRL.M.C. 174/2024 & CM APPL. 66987/2023**

SHABNAM RASHID

..... Petitioner

Through: Ms. Shivani Luthra Lohiya, Ms.
Apoorva Maheshwari and Ms. Sanskriti Bansal,
Advocates.

versus

RASHID MALIK

..... Respondent

Through: Mr. Mohit Kumar Sharma, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

14.03.2024

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1. This petition has been filed by the Petitioner under Article 227 of the Constitution of India challenging order dated 06.11.2023 passed by learned Additional Sessions Judge, South-East District, Saket Courts, New Delhi, in Criminal Appeal No.344/2023, titled as '*Rashid Malik v. Shabnam Rashid*'.
2. The present petition arises out of a marital discord between the Petitioner and the Respondent whose marriage was solemnized on 27.05.1990 according to Muslim rituals and ceremonies and the litigation between them has a chequered history. For the purpose of the present petition, it would suffice to note only the relevant facts which are that a complaint was filed by the Petitioner under Protection of Women from Domestic Violence Act, 2005 (DV Act) on 31.07.2019 in which an interim order was passed against the Respondent from alienating/creating third party rights in shared household/matrimonial house of the Petitioner. Criminal



Appeal No. 481/2019 filed against the said order dated 07.08.2019 by the Respondent was dismissed on 05.04.2021. By an order dated 18.08.2020, learned MM awarded monthly interim maintenance of Rs.48,813/- in favour of the Petitioner against which she filed Criminal Appeal No. 127/2020 on 24.08.2020 seeking enhancement. Respondent filed Criminal Appeal No. 149/2020 on 24.09.2020 under Section 29 of DV Act assailing the order dated 18.08.2020. The learned Sessions Judge vide common judgment dated 05.04.2021 set aside order dated 18.08.2020 and remanded the matter back to the learned MM to decide the claim of interim maintenance, afresh. This order was challenged by the Petitioner in a revision petition bearing No. 200/2021 before this Court and the petition is stated to be pending.

3. As the chronology of dates and events goes, after the remand, learned MM passed an order on 21.09.2023 directing the Respondent to pay a monthly interim maintenance of Rs.30,000/- to the Petitioner. This order was assailed by the Petitioner by filing an appeal under Section 29 of the DV Act seeking enhancement of maintenance. Respondent also filed an appeal challenging the order and by impugned order dated 06.11.2023, the Appellate Court stayed the order dated 21.09.2023, passed by the learned MM.

4. The prime grievance of the Petitioner is that a detailed and reasoned order was passed by the learned MM, after examining all facts and documents and hearing the parties and after prolonged litigation, interim maintenance was granted to the Petitioner, however, the Appellate Court by a cryptic order and without assigning a single reason has stayed the operation of the order. It is therefore prayed that the order be set aside and the appeal be heard on merits. It is also stated that the appeal filed by the



Petitioner seeking enhancement of maintenance is also pending and both the appeals should be heard together. Learned counsel for the Respondent echoes the prayer of the Petitioner that both appeals should be heard together by the Appellate Court as one may have bearing on the other.

5. Accordingly, with the consent of the learned counsels for the parties, who also state that no further pleadings are required to be filed and without adverting to the merits of the appeals, it is directed that both appeals being CA Nos. 344/2023 and 329/2023 will be taken up for final hearing by the Appellate Court on 10.04.2024, the date fixed in both the appeals and no adjournment shall be granted to either party, unless absolutely necessary.

6. Needless to state that this Court has not expressed any opinion on the merits of the appeals filed by the parties and it is left open to the Appellate Court to decide the appeals in accordance with law and on the facts and circumstances of both the cases and the material on record.

7. Petition stands disposed of with the aforesaid directions. Pending application also stands disposed of.

JYOTI SINGH, J

MARCH 14, 2024/pa/shivam