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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 202/2023, CRL.M.A. 5159/2023 &**
CRL.M.A. 35196/2023

SH. RAJESH SHAHI Petitioner
Through: Ms. Arza Rehman, Adv.
through V.C.

versus

SMT. BAIDEHI SHAHI Respondent
Through: Mr. Naveen Soni, Adv.
through V.C.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
15.04.2024

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1. The present petition is filed under Section 397 read with Section 401 and Section 482 of the Code of Criminal Procedure, 1973 challenging the order dated 16.08.2022 ('**impugned order**') passed by the learned Principal Judge, Family Court, Saket Courts, Delhi ('**Family Court**') in M No. 59/2020.
2. By the impugned order the learned Family Court had granted interim maintenance of ₹7,000/- per month to the respondent, from the date of the filing of the application till final disposal of the petition on merits on the ground that the respondent is more than 70 years of age and is a housewife, and is not working or earning.
3. The learned counsel for the petitioner submits that the learned Trial Court has erroneously recorded that the respondent is paying the premium of two LIC policies of ₹2,000/- and ₹7506/- per month, and is also paying for domestic help a sum of ₹22,000/- per month.



4. The learned counsel for the petitioner further submits that the parties have been referred to the mediation by the learned Trial Court

5. At this stage, no evidence has been filed which would show that the respondent is in a position to maintain herself. Even otherwise, a sum of ₹7,000/- per month in the opinion of this Court is reasonable maintenance at the interim stage.

6. Various defences raised by the petitioner, along with the allegations and counter allegations, would be the subject matter of the trial, and would have to be decided after the parties have led their evidence.

7. While the learned Family Court has not assessed the income of the petitioner, this Court in a catena of judgments has noted that some guesswork on the part of the Court is permissible when determining maintenance under Section 125 of the CrPC.

8. It is not disputed that the impugned order is only an order of interim maintenance. The learned Family Court would pass a final order in regard to the maintenance after considering the evidence on record.

9. The learned Trial Court is directed that a final order be passed uninfluenced by the findings that are recorded by the learned Trial Court while passing the impugned order.

10. In view of the above, this Court finds no reason to interfere with the impugned order and the petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

APRIL 15, 2024

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