



\$~128

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

+ **CRL.REV.P. 561/2024**

RAJIV TALWAR

..... Petitioner

Through: Ms. Rimali Batra, Mr. Abhishek
Lalwani & Mr. Krishan Kumar, Advocates.

versus

MADHU TALWAR & ANR.

..... Respondents

Through: Respondent No.1 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

26.04.2024

%

CRL.M.A. 12571/2024

1. Exemption allowed, subject to just exceptions.
2. Application stands disposed of.

CRL.REV.P. 561/2024 and CRL.M.A. 12570/2024

3. This revision petition has been filed on behalf of the Petitioner under Section 397 Cr.P.C. read with Section 401 Cr.P.C. challenging orders dated 18.04.2024 and 17.02.2024 passed in Ex. No.167/2022 by Ms. Shunali Gupta, Judge-02/Family Court, District South, Saket, New Delhi in execution of order dated 10.03.2022 passed by the learned Principal Judge, Family Court, District South, Saket, Delhi in MT. Case No.128/2020.
4. Issue notice.
5. Respondent No.1 who is present in Court accepts notice.
6. Respondents No.1 and 2 herein were awarded *ad-interim* maintenance of Rs.3,000/- by the Trial Court vide order dated 10.03.2022. On non-payment by the Petitioner, Respondent No.1, on 18.05.2022, filed Execution



Petition bearing No.167/2022 for execution of order dated 10.03.2022. Subsequently, Petitioner filed his affidavit of Income and Assets before the Trial Court bringing forth that he had no source of income and was undergoing medical treatment and that the joint property was held in the name of the Petitioner and Respondent No.1.

7. The learned Executing Court vide order dated 18.01.2024 remanded the Petitioner to judicial custody till 17.02.2024 for non-payment of the maintenance arrears and fixed the matter for 17.02.2024. On 17.02.2024, Petitioner was produced from judicial custody and as the order reflects, he stated before the Court that if released from Jail, he shall regularly pay the monthly maintenance of Rs.3,000/- and also clear at least 50% of the arrears, amounting to Rs.63,000/- within 45 days. On this submission and assurance of the Petitioner, Executing Court directed his release from judicial custody and adjourned the matter for the purpose of payment on 18.04.2024. However, on 18.04.2024, Petitioner sought further time of one week to make the payment, which was granted to him with a direction that in case he failed to make the payment, necessary coercive steps shall be initiated for recovery of arrears and the matter was adjourned to 27.04.2024, for payment.

8. Challenging the aforesaid two orders, learned counsel for the Petitioner pleads that Petitioner did not intend to give an assurance that he was willing to pay the monthly maintenance and/or clear 50% of the maintenance arrears. He was unrepresented by a counsel and did not understand the import of his submission before the Court. It is further urged that Petitioner has no means to pay the monthly maintenance and the order awarding the *ad interim* maintenance @ Rs.3,000/- by the Family Court is erroneous and illegal.



9. The argument that Petitioner does not have the financial capacity to pay the monthly maintenance or that the order awarding the same is illegal, cannot be accepted at this stage and in the present proceedings. If the Petitioner is aggrieved, it is open to him to challenge the order in the appropriate forum, but till the order stands, Petitioner is bound to comply with the direction of the Court, awarding the maintenance.

10. Coming to the stand now adopted that Petitioner did not willingly give the undertaking to pay the monthly maintenance or clear the arrears, this position is completely belied by a plain reading of order dated 17.02.2024, which reflects that Petitioner had voluntarily offered to pay the monthly maintenance of Rs.3000/- and clear 50% of the arrears, subject to his release from judicial custody. No request was made before the Court to defer the matter on the ground that he was unrepresented by a counsel, a ground strenuously urged before this Court. Petitioner's willingness to pay the money is further evident from the second impugned order dated 18.04.2024, which shows that Petitioner sought one week's further time to make the payment. Even on this date, Petitioner made no claim that the offer made by him on 17.02.2024 was out of any compulsion or under a misconception or that he had no means to pay. Executing Court has only bound the Petitioner to his own undertaking to pay maintenance to the Respondents, failing which, he would be liable to face coercive action as per law for recovery of arrears. No infirmity is found in the impugned orders, warranting interference by this Court.

11. At this stage, learned counsel for the Petitioner, on instructions, seeks a further period of 3 weeks to clear the arrears, with an undertaking that the payment shall be made within the extended time. She further prays that



direction be issued to the Executing Court not to initiate coercive steps since the matter is fixed on 27.04.2024 for making payment.

12. Respondent No.1 is present in person and does not object to the extension of time, if Petitioner honours the undertakings given before the Executing Court on 17.02.2024 and 18.04.2024 and before this Court today and makes payment within 3 weeks,

13. Heard learned counsel for the Petitioner and Respondent No.1.

14. Taking the undertaking of the Petitioner on record, 3 weeks' time from today, is granted to the Petitioner to make payment to Respondent No.1 in terms of the offer made voluntary before the Court on 17.02.2024 and the impugned order dated 18.04.2024 directing payment upto 27.04.2024, failing which coercive steps shall be taken by the Executing Court, is kept in abeyance for a period of 3 weeks. It is made clear that if the Petitioner fails to abide by the undertaking given before this Court within the time sought and granted, Executing Court will be free to take necessary steps for execution of the order dated 10.03.2022, as directed vide order dated 18.04.2024.

15. Revision petition is disposed of in the aforesaid terms along with the pending application.

,JYOTI SINGH, J

APRIL 26, 2024

B.S. Rohella/kks