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

Date of decision: 02nd AUGUST, 2024

IN THE MATTER OF:

+ **CRL.M.C. 6262/2022 & CRL.M.As. 24523/2022 & 475/2023**

SH. GAUTAM KANT NIMAAN

.....Petitioner

Through: In person

versus

N & ANR.

.....Respondents

Through: Mr. Ankit Jain, Mr. Naresh Gupta,
Mr.Rachit Gumber, Ms. Divyanshu
Rathi, Ms. Radhika Bansal,
Advocates.

+ **CRL.REV.P. 238/2022 & CRL.M.A. 7642/2022**

SH. GAUTAM KANT NIMAAN

.....Petitioner

Through: In person

versus

MASTER N & ANR.

.....Respondents

Through: Mr. Ankit Jain, Mr. Naresh Gupta,
Mr.Rachit Gumber, Ms. Divyanshu
Rathi, Ms. Radhika Bansal,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. CRL.REV.P. 238/2022 has been filed by the Petitioner challenging the Order dated 20.12.2021, passed by the Family Courts, in Maintenance



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Petition No.91/2021, fixing Rs.25,000/- as interim maintenance per month to be paid by the Petitioner herein/Husband to the Respondents herein/Children.

2. CRL.M.C. 6262/2022 has been filed by the Petitioner challenging the Order dated 30.09.2022, passed by the Trial Court, dismissing the application of the Petitioner herein seeking stay of the execution petition No.42/2022, filed by the Respondents herein for attachment of Rs.3,25,000/- from the Petitioner for recovery of arrear of maintenance.

3. The facts that can be discerned from the Order impugned herein are that the Respondents herein are the children of the Petitioner herein. The marriage between the Petitioner herein and the mother of the Respondents herein was solemnized on 24.01.2007 and out of the said wedlock the Respondents herein, who are twins, were born on 03.11.2007. It is stated that differences arose between the husband and the wife after about three years of marriage. Various proceedings have been initiated by the parties against each other. The Respondents filed an application under Section 125 Cr.P.C before the Family Courts. At the time of filing of the said application, the children were 13 years of age. The Family Court, after considering the material on record came to the conclusion that the Petitioner herein/Husband would be earning roughly about Rs.70,000-80,000/- per month and, therefore, fixed Rs.25,000/- per month as interim maintenance. It is this Order which has been challenged by the Petitioner in CRL.REV.P. 238/2022 before this Court.

4. Heard the Petitioner, who is appearing in person, and the learned Counsel for the Respondents and perused the material on record.

5. Along with the Revision Petition, the Petitioner has also filed a copy



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of the Written Statement to the maintenance petition. Though, it is submitted by the learned Counsel for the Respondents that the said Written Statement is not on record before the Family Court and the same is also noted in the Order dated 20.12.2021. However, since the Petitioner has filed the Written Statement before this Court on affidavit, this Court is inclined to take note of the figures given in the income affidavit filed along with the Written Statement before this Court. A perusal of the said affidavit discloses that the Petitioner is earning a sum of Rs.10,000/- per month (Rs.1,20,000/- per annum) and apart from the said amount, the Petitioner is also earning Rs.5,00,000/- to 6,00,000/- per annum from other sources. Even taking the lower value of Rs.5,00,000/- per annum as earning from other sources and adding Rs.1,20,000/- to it brings the total annual income of the Petitioner to about Rs.6,20,000/- which translates to about Rs.51,666/- per month.

6. The Apex Court in Rajneesh v. Neha, **2021 (2) SCC 324**, has held that while deciding interim maintenance, some amount of guesswork or rough estimate takes place so as to make a *prima facie* assessment of the amount to be awarded. The Apex Court has held that both parties submit scanty material and do not disclose the correct details and suppress vital information which makes difficult for the family courts to make an objective assessment for grant of interim maintenance. It was observed that while there is a tendency on the part of the wife to exaggerate her needs and the income of the husband, there is a corresponding tendency on the part of the husband to conceal his actual income and exaggerate the expenses incurred by him. In such situation, the Family Courts take a rough estimate to calculate the income of the husband and on that basis decides the interim maintenance which is subject to the final outcome determined after the



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parties lead evidence to prove the income.

7. In the present case, the Family Court has decided the interim maintenance of Rs.25,000/- to be paid by the Petitioner herein to the Respondents, who are his children. As per the income affidavit filed before this Court, Petitioner earns roughly about 52,000/- per month from different sources. In view of the above, the figure of Rs.25,000/- to be paid by the Petitioner as interim maintenance to his two children seems to be a reasonable amount which does not need any interference from this Court. Though it has been submitted by the learned Counsel for the Respondents that apart from the abovementioned earnings, the Petitioner also has mutual fund investments but at this juncture, this Court is not inclined to take the amount of mutual fund investments made by the Petitioner into account and the same shall be proved by the parties before the Family Court by leading evidence.

8. It is well settled that the object of the maintenance proceedings is to prevent vagrancy and destitution of the wife and children by providing for food, clothing and shelter by a speedy remedy and Section 125 CrPC was conceived to ameliorate the agony, anguish and financial suffering of a women who left her matrimonial home, for the reasons provided in the provision so that some suitable arrangement is made by the court so that she can sustain herself and her children. It is the sacrosanct duty of the husband to provide financial support to the wife and minor children. [Refer to:- Bhuwan Mohan Singh v. Meena & Ors., **2015 (6) SCC 353**]

9. Keeping in mind the object of Section 125 CrPC and also keeping in mind the earning of the Petitioner herein and the needs of the Respondents herein, who are minors, this Court is of the view that Rs.25,000/- is a



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reasonable amount required by the Respondents to maintain themselves.

10. Accordingly, CRL.REV.P. 238/2022 is dismissed, along with the pending applications, if any.

11. Liberty is granted to the Petitioner to approach the Family Court to get the Written Statement on record as per the procedure.

12. CRL.M.C. 6262/2022 has been filed by the Petitioner challenging the Order dated 30.09.2022, passed by the Trial Court, dismissing the application of the Petitioner herein seeking stay of the execution petition No.42/2022, filed by the Respondents herein for attachment of Rs.3,25,000/- from the Petitioner, for recovery of arrear of maintenance from the movable and immovable properties of the Petitioner herein. In view of the fact that the Revision Petition has been dismissed by this Court, the Order dated 30.09.2022, passed by the Trial Court, dismissing the application of the Petitioner herein seeking stay of the Execution Petition, does not require interference by this Court.

13. Liberty is granted to the Petitioner to approach the Trial Court seeking permission to pay the arrears of interim maintenance in a staggered manner.

14. As and when such an application is filed by the Petitioner, the Trial Court is directed to consider the same in accordance with law.

15. CRL.M.C. 6262/2022 is also dismissed, along with the pending applications, if any

SUBRAMONIUM PRASAD, J

AUGUST 2, 2024

Rahul