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

+ **CRL.REV.P.(MAT.) 20/2024 & CRL.M.A. 26445/2024**

JITENDER KUMAR TYAGIPetitioner

Through: **Mr. Aditya Aggarwal with Ms. Pooja Roy, Advocates.**

versus

SHANTI TYAGI & ANR.Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **03.09.2024**

CRL.M.A. 26446/2024

Exemption allowed, subject to just exceptions.

The application stands disposed-of.

CRL.REV.P.(MAT.) 20/2024

By way of the present revision petition filed under sections 397/401 read with section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner impugns order dated 25.07.2024 whereby the learned Family Court has been pleased to direct the petitioner (respondent therein) to pay *ad-interim* maintenance in the sum of Rs.50,000/- per month towards the maintenance of the child.

2. Though the present petition has been filed under the provisions of the Cr.P.C., in the opinion of this court, on a plain but meaningful reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), proceedings are to be "*disposed of, continued, held or made*" in accordance with the Cr.P.C. *only* in cases where ***such proceedings***, viz. "*any appeal, application, trial, inquiry or investigation*", were already ***pending*** immediately before the date on which the BNSS came



- into force, *i.e.*, 01.07.2024. It appears therefore, that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings; and to therefore not change the governing law during the pendency of such proceedings.
3. Since the present petition is a fresh proceeding and has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under sections 438/442 read with section 528 of the BNSS.
 4. Mr. Aditya Aggarwal, learned counsel appearing for the petitioner submits, that the amount of Rs.50,000/- per month has been arrived-at on the assumption that the petitioner, who is presently employed in Canada, earns about CAD 5,400.00 per month, without taking into account that respondent No.1 herself is employed as a banker and earns about Rs. 2.00 lacs per month.
 5. Mr. Aggarwal further submits, that while awarding the *ad-interim* maintenance, the learned Family Court has also omitted to consider the principle of 'Purchasing Power Parity' which ought to have been factored into the decision. He states that since it will take some time for the learned Family Court to finally decide the matter on merits, the petitioner would be unfairly burdened with excessive *ad-interim* maintenance, which he will have to pay.
 6. However, since the impugned order only grants *ad-interim* maintenance towards the maintenance of the child, and is therefore in the nature of an interlocutory order, this court is not persuaded to entertain the present petition in its revisional jurisdiction.



7. The petition is accordingly disposed-of.
8. However as prayed-for, the petitioner shall be at liberty to file an appropriate application before the learned Family Court for reconsidering the *ad-interim* maintenance awarded, which may be decided by the said court, in accordance with law.
9. Any such application shall be decided by the learned Family Court without being influenced by any observation made in the present proceedings.
10. Petition is disposed-of in the above terms.
11. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 3, 2024
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