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

+ CRL.REV.P. 1117/2024 & CRL.M.A. 27152/2024, CRL.M.A.
27153/2024

GOPAL AGARWAL

.....Petitioner

Through: Mr. Akash Vajpai and Mr.
Kaushlendra D. Pandey, Advocates.
versus

SMT KAVITA AGARWAL & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **09.09.2024**

CRL.M.A. 27154/2024 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

CRL.REV.P. 1117/2024

By way of the criminal revision petition filed under sections 397/401 of the Code of Criminal Procedure 1973, the petitioner impugns order dated 22.07.2024 passed by the learned Judge, Family Court, Saket Courts, Delhi directing the petitioner to pay *ad-interim* maintenance of Rs.10,000/- each to his wife and son, per month, from the date of filing of the petition till the disposal of the petition and to clear arrears, within 03 months in 03 equal instalments.



2. Though the present petition has been filed under the provisions of the Code of Criminal Procedure 1973 ('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 BNSS.
4. Further, perusal of the impugned order shows that the learned Family Court has placed the matter for filing of income affidavits by the parties and for further proceedings and arguments on the application for interim maintenance on 25.10.2024.
5. Since the order impugned directs payment of *ad-interim* maintenance, this court is not inclined to interfere with the order in its revisional jurisdiction.



6. The petition is accordingly disposed-of; without making any observations on the merits of the matter.
7. Needless to add, that the petitioner shall be at liberty to avail all his remedies before the learned Family Court as may be available, in accordance with law.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 9, 2024/ak