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

+ **CRL.REV.P.(MAT.) 52/2024 & CRL.M.A. 29716/2024**

ARJUN SINGH

.....Petitioner

Through: Mr. H. S. Gulati, Advocate with
petitioner in court.

versus

YAMINI SINGH TOMAR

.....Respondent

Through: Mr. Nitin Mehta with Ms. Arushi
Sethi, Advocates and respondent No.1
in court.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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03.10.2024

CRL.M.A. 29717/2024

Exemption granted, subject to just exceptions.

The application stands disposed-of.

CRL.M.A. 29718/2024

By way of the present application filed under section 5 of the Limitation Act 1963 read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner seeks condonation of 38 days' delay in *re-filing* the petition.

2. For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed.
3. Delay in *re-filing* the petition is condoned.
4. CRL.REV.P.(MAT.) No.52/2024 is taken on Board.
5. The application stands disposed-of.



CRL.REV.P.(MAT.) 52/2024

6. By way of the present petition filed under sections 438/442 of the BNSS, the petitioner impugns order dated 19.04.2024, whereby the learned Family Court, Patiala House Courts, New Delhi has awarded interim maintenance in the sum of Rs.15,000/- per month in favour of the petitioner's 3½ year-old girl child, with an increase of 10% per annum from the date of filing of the petition. The impugned order has been made in MT No.148/2021, whereby respondent No.1/wife and respondent No.2/daughter had prayed for interim maintenance in the sum of Rs.90,000/- per month for both of them, in addition to a sum of Rs.60,000/- towards litigation expenses.
7. Mr. H. S. Gulati, learned counsel appearing for the petitioner submits, that as will be seen from the petitioner's salary slips for the months of May 2022 and September 2023, after adjustment of House Rent Allowance ('HRA'), the petitioner receives a net pay of only Rs.68,282/- per month, which is in fact less than what he used to receive earlier, which was Rs.76,879/- per month. Counsel further submits, that as is also apparent from the bank statements of respondent No.1 for the months of July and August 2023, she receives almost an equivalent salary of Rs.63,597/- per month.
8. The petitioner is presently stated to be employed as Senior Court Assistant at the Supreme Court of India and respondent No.1 is stated to be a teacher at the DAV Public School, Faridabad.
9. Counsel argues, that considering that the financial wherewithal and earning capacity of the petitioner and respondent No.1 are almost the same, there was no justifiable basis for the learned Family Court to



have awarded maintenance in the sum of Rs.15,000/- per month in favor of respondent No.2, his daughter.

10. Counsel submits, that the petitioner is also willing to assure respondent No.1 that he would take care of all medical needs and expenses of their daughter, since the daughter is also covered by the CGHS Scheme available to the petitioner; and that even if any medical expenses are required to be incurred on the daughter at a non-CGHS facility, the petitioner would take-care of it.
11. It is further argued, that since respondent No.1 is a teacher at a DAV School, the daughter would be entitled to complete tuition fee waiver if she is enrolled in the same school.
12. Mr. Nitin Mehta, learned counsel is present on behalf of the respondents on advance copy, along with respondent No.1.
13. Counsel for the respondents submits that the petitioner's gross pay is about Rs.1,00,000/- per month, whereas the respondent No. 1's gross pay is only about Rs.70,000/- per month. Counsel further submits, on instructions, that respondent No.2 does not receive any tuition fee waiver even though respondent No.1 is a teacher in the same school; and in any event, respondent No.1 has to incur other expenses on her growing child.
14. Counsel for the respondents submits, that the petitioner is already in arrears of about Rs.3,00,000/- that are owed towards *ad-interim maintenance* of Rs.10,000/- per month that was awarded against him earlier by the learned Family Court apart from the interim maintenance awarded now; and a direction has been issued by the



learned Family Court to clear the same in 02 equal monthly instalments, which also the petitioner has failed to do.

15. Upon an overall conspectus of the facts and circumstances of the case, and after perusing the impugned order, this court is of the view that the learned Family Court has proceeded very fairly to award interim maintenance of Rs.15,000/- per month *only in favour of respondent No.2*, namely the petitioner's minor daughter, from the date of filing of the petition with a 10% per annum increase. It is noticed that the learned Family Court has taken into account the earnings and income of both parties, as had come on record by way of their respective affidavits of income; and has looked at even the details of the salary slips placed before it.
16. Upon considering the foregoing, this court is unable to discern anything remiss as to the correctness, legality or propriety of impugned order dated 19.04.2024 that would warrant interference by this court in exercise of its revisional powers under sections 438/442 of the BNSS.
17. In view of the above, this court is not inclined to entertain the present revision petition, which is accordingly dismissed at the stage of issuance of notice itself.
18. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 3, 2024
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