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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 8268/2024 and CRL.M.A. 31615/2024
NIDHI MATHURPetitioner

Through: Mr.Manis Sharma, Advocate
versus

NIKHIL MATHUR & ORS.Respondents
Through: Appearance not given

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
21.10.2024

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1. By way of present petition, the petitioner, who has approached the Mahila Court vide an application under Section 12 of the DV Act, is aggrieved by the observations recorded in the judgment dated 13.04.2023 passed in appeal being CRL. APPEAL No. 69 of 2022 filed under Section 29 of the DV Act.

2. Learned counsel for the petitioner contends that while considering the application for grant of interim maintenance, vide order dated 18.01.2022 a sum of Rs.80,000/- was granted by the Mahila Court towards the petitioner as well as the minor child. He submits that on respondent's challenge to the said order, the appellate court though maintained the amount of maintenance, however, while noting that the petitioner was capable of earning and has considerable amount in her bank accounts, the entire amount of interim maintenance was granted to the minor child. He further assails the observations of the appellate court by submitting that the petitioner is an actress, who gets contractual work on irregular basis and there is no regular or definite source of income. Learned counsel further submits that the respondent has not challenged the quantum of interim



maintenance.

3. The petition is resisted by learned counsel for the respondent, who submits that in the appellate proceedings filed by him, the copies of contact/endorsement entered into by the petitioner, were placed on record which indicate that the petitioner has regular source of income. Concededly, the said material was not placed before the Mahila court.

4. Notably, the present proceedings are in the context of interim maintenance granted by the Mahila Court. The grant or quantum of interim maintenance has not been challenged. The only challenge is whether the interim maintenance is to be counted towards both the petitioner and the minor child or only towards the minor child.

5. Considering that the parties are still before the Mahila Court, where they shall be at liberty to place the entire material on record and would lead their respective evidence, the observations of the Sessions Court would not come in the way of Mahila Court to reach its independent conclusion on the grant of maintenance to one or both the claimants.

6. With the aforesaid observations, the petition is disposed of alongwith the pending applications.

7. However, it is clarified that this Court has not expressed any opinion with regard to the quantum of maintenance, and that in case at the time of disposal of the maintenance petition, the Trial Court comes to the conclusion that the respondent is entitled to lesser or higher maintenance, it would be at liberty to grant adjustment of the arrears either way.

MANOJ KUMAR OHRI, J

OCTOBER 21, 2024

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