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

+ **CRL.M.C. 5159/2018**

SUDESH RANI

.....Petitioner

Through: Mr. Brahmanand Gupta, Adv.(VC)

versus

SHARAD KUMAR BHARDWAJ

.....Respondent

Through: Ms. Gopashree Raman and Ms.
Aakansha Chandok, Advs.(VC)

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

11.09.2024

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1. The present petition has been filed challenging the order dated 25.04.2018 passed by learned ASJ, Rohini Courts, Delhi in case titled *Sharad Kumar Bhardwaj v. Sudesh Rani* in Criminal Appeal No. 119/2017 in CC No. 14/4/14.
2. Learned counsel for the petitioner submits that the learned Appellate Court has fallen into grave error by setting aside the order of the learned MM, dated 02.08.2017 whereby the maintenance was awarded.
3. Respondent in their reply have stated that the maintenance amount till September, 2017 stands paid to the petitioner and her daughter. It is also submitted that the Ld. ASJ set aside the order dated 02.08.2017 passed by Ld.MM and cancelled the maintenance awarded, on the ground that the petitioner has not averred any instance of cruelty in



her affidavit of evidence.

4. Learned counsel for the petitioner has candidly admitted that the affidavit filed by the petitioner has certain lacuna. Learned counsel submits that though there is no averment of physical, mental assaults but there is mention of economic abuse.
5. The jurisdiction under Section 482 Cr. PC is very limited. The Court can interfere only if there is a glaring perversity, illegality in the order of the learned Trial Court. In para-18, learned Trial Court has *inter alia* held as under;

“18. In the present case, as stated above, the respondent wife in her affidavit ExPW1/A is completely silent about any physical, mental and sexual abuse at the hands of her husband or other family member. With respect to the allegation of economic abuse, it is relevant here to state that although she had mentioned in her affidavit that her husband had withdrawn all the amount from her saving account in the post office by taking forcible signatures on the withdrawal slips and that all the household appliances and her educational certificates and testimonials are in the custody of her husband but in my view the same is not sufficient to infer economic abuse at the hands of her husband as is held by the trial court. The said allegations are general in nature.”

6. In order to assail such an order, there has to be some perversity. The perversity would come into the play only when the order has been passed contrary to the record or on the basis of material which is not on record. The allegation against the respondent is that of physical and economic abuse. However, the affidavit and material on record is silent about physical abuse, as also candidly submitted by the learned counsel for the petitioner. Therefore, the material on record has duly been appreciated by the Ld. Sessions Court. The view taken by the



court below can only be set-aside if it is preposterous. In the present case, this court finds the order challenged in sync with the law. The order challenged does not reveal any perversity.

7. In *Ritu Sethi v. State of NCT of Delhi & Ors.* CRL.M.C.4449/2014, it is inter alia stated that, for this Court to exercise its inherent powers under Section 482 Cr.PC. in interfering with the findings of the Courts below, it has to be demonstrated that the illegality in the said orders go to the very root of the matter and therefore are not sustainable in law.
8. I consider that there is no perversity or illegality in the order of the learned Trial Court, hence the present petition stands dismissed.

DINESH KUMAR SHARMA, J

SEPTEMBER 11, 2024

Pallavi/KR