



\$~16

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

+ CRL.REV.P. 124/2021 & CRL.M.A. 3659/2024

SH. GAURAV SHARMA

.....Petitioner

Through: Mr. Saurabh Sharma, Advocate.

versus

MS. BHARTI SHARMA

.....Respondent

Through: *Appearance not given.*

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

%

28.02.2025

1. The instant petition has been filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973,¹ seeking setting aside of order dated 28th January, 2020 passed by the Additional Sessions Judge-03, (East), Karkardooma Courts in Crl. Appeal No. 172/2019, dismissing the appeal filed by the Petitioner.

2. Briefly stated, the facts of the present petition are as follows:

2.1 The Petitioner and the Respondent got married on 7th December, 2013. However, the Respondent subsequently withdrew from the society of the Petitioner, following which the parties started residing separately since 29th September, 2016.

2.2 The Respondent filed a criminal complaint under Section 12 of the

¹ "CrPC"



Protection of Women from Domestic Violence Act, 2005,² which is currently pending before the Metropolitan Magistrate (East), Delhi.

2.3 In the aforesaid complaint, the Respondent filed an application under Section 23(2) of the DV Act, seeking interim maintenance from the Petitioner. In the said proceedings, the MM, *vide* order dated 21st July, 2018, awarded an ‘ad-interim’ monthly maintenance of INR 12,000/- to the Respondent. The assessment was made considering the admitted income of the Petitioner as INR 45,430/- and that of the Respondent as INR 39,000/- per month. The Court clarified that the awarded amount was not decided on the merits of the case.

2.4 Nonetheless, since there was no discussion regarding the requirement of Section 20 of the DV Act, the Petitioner preferred an appeal (Crl. Appeal No. 172/2019) assailing the said order. However, the said appeal was not entertained as there was a gross delay of 435 days.

3. Aggrieved by the aforementioned decision, the instant petition was filed. This Court, by order dated 04th August, 2022, while considering the application for stay of the impugned order, directed the Petitioner to deposit the entire arrears in the form of a fixed deposit before the Trial Court in favour of the Respondent. The effect of this order was conditional, specifying that, contingent upon the deposit of the entire arrears, the impugned order would remain stayed.

4. On 05th January, 2023, the Petitioner was directed to deposit a demand draft of INR 6,96,000/- in favour of the Registrar General of this Court within one week from the date of the said order. The Petitioner has complied with the aforesaid direction and the entire arrears stand deposited.

² “DV Act”



5. In response to the Court's inquiry, the counsel have informed that no decision has been rendered on the grant of 'interim' maintenance as of this date. At this juncture, it is important to emphasize that the impugned order dated 21st July, 2018 pertains solely to the award of 'ad interim' maintenance. In light of the foregoing, the Court is of the opinion that, since the Respondent's interest is now secured, the Court need not deliberate on the grounds of challenge urged as the impugned order is only an 'ad interim'. There is also no need to keep the present proceedings pending any longer; instead, a direction can be issued for the expeditious disposal of the application filed by the Respondent seeking 'interim' maintenance. Subject to the outcome of this application, the Trial Court can issue appropriate directions for disbursement of the arrears, which are deposited with this Court.

6. Accordingly, the present petition is disposed of with following directions:

6.1 The Trial Court shall decide the application of the Respondent for award of interim maintenance, within three months from today.

6.2 The Trial Court shall issue appropriate directions with respect to the disbursal of arrears to the Respondent, subject to the aforementioned decision.

6.3 The decision for award of interim maintenance shall be considered on its own merits, uninfluenced by any of the observations made hereinabove or in the impugned order dated 21st July, 2018. To clarify, the award of interim maintenance shall be decided on its own merits, after hearing both sides and on the basis of the documents presented before the Trial Court, after assessing the expenses and income of the parties.

7. With the above directions, the present petition is disposed of, along



with pending application.

8. The Court has not commented on the merits of the case. All rights and contentions of the parties are left open.

SANJEEV NARULA, J

FEBRUARY 28, 2025

d.negi