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**In the High Court of Punjab and Haryana at Chandigarh****108****CRR- 2485 of 2022(O&M)****Date of Decision: 28.02.2023****Bhanu Kiran****---Petitioner****versus****Rahul Khosla and others****---Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Ms. Jasleen Kaur Chandhok, Advocate  
for the petitioner  
Mr. N.K.Verma, Advocate  
for the respondents

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**JAGMOHAN BANSAL, J. (ORAL)****CRM- 3175 of 2023**

Allowed as prayed for.

Reply filed on behalf of respondent No. 1 is taken on record. Registry is directed to tag the same at an appropriate place.

**CRR- 2485 of 2022(O&M)**

1. The petitioner through the instant petition is seeking setting aside of order dated 18.10.2022 whereby Additional Sessions Judge, Ludhiana has partially stayed operation of order dated 22.09.2022 passed by Judicial Magistrate Ist Class, Ludhiana.
2. The brief facts emerging from the record and arguments of both sides are that marriage of the petitioner was solemnized with respondent No. 1 in 2009. Due to reasons best known to the parties, couple could not enjoy fruits of marriage tree. The petitioner preferred a petition under Section 12 read with other provisions of Protection of

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Women from Domestic Violence Act, 2005 (for short “D.V. Act”) before Magistrate seeking maintenance and other reliefs. The petitioner further preferred an application under Section 23 of D.V. Act seeking interim maintenance. The application seeking interim maintenance came up for consideration before Magistrate who vide order dated 22.09.2022 directed the respondent to pay a sum of Rs. 60,000/- per month towards maintenance. The said amount was awarded as interim maintenance to petitioner and minor child.

The respondent preferred an appeal before Sessions Court seeking setting aside of interim order passed by the Magistrate. The appeal was filed in terms of Section 29 of D.V. Act. The appeal came up for consideration before Additional Sessions Judge, Ludhiana who vide impugned order dated 18.10.2022 issued notice of appeal to the present petitioner as well as partially stayed operation of the impugned order. The Magistrate had awarded interim maintenance of Rs. 60,000/- and Appellate Court vide impugned order has stayed operation of the order granting interim maintenance beyond Rs. 15,000/- per month till final disposal of the case.

The relevant extracts of the impugned order dated 18.10.2022 read as:

*“...I am of the view that the impugned order passed by the Ld. Lower court qua the maintenance is required to be stayed till the decision of this appeal but subject to the condition, and as per*

*undertaking given by the Ld. Counsel for the appellant that the husband will pay Rs.15,000/- per month from the date of order and he will also clear the arrears at the rate of Rs.15,000/- per month till the last month i.e. September, 2022 and the remaining amount ordered by the Ld. Lower court is ordered to be stayed, till the next date of hearing.”*

The petitioner has preferred present petition before this Court seeking setting aside of impugned order dated 18.10.2022.

3. Learned counsel for the petitioner inter alia contends that respondent has preferred appeal under Section 29 of D.V. Act and appeal under Section 29 of D.V. Act can be filed against final order and not interim order whereas order under challenge before Appellate Court was interim order passed in terms of Section 23 of D.V. Act. She further contends that Magistrate under Section 23 D.V. Act had granted interim maintenance and Appellate Court in the absence of specific power under section 29 of DV Act has no power to stay operation of impugned order. The Appellate Court was supposed to decide appeal one or another way, however, Appellate Court had no power to stay operation of the impugned order.

Learned counsel in support of her contention relied upon judgment of the Hon'ble Supreme Court **Shalu Ojha vs. Prashant Ojha (2015) 2 SCC 99** and judgment of a Co-ordinate Bench of this

Court in **Balwinder Kaur and another vs. Mahan Singh and others (CRM-M-31518 of 2008)** decided on 03.12.2008.

4. Per contra, learned counsel for the respondent inter alia contends that expression 'order' used in Section 29 D.V. Act includes interim order. Any reading of expression 'order' not including interim order would amount to re-writing of legislation. With respect to power of the Appellate Court to grant interim relief, he submitted that power to hear appeal includes power to pass interim order, thus, Appellate Court was quite competent to pass impugned order.

Learned counsel in support of his contention relied upon judgments of Utrakhand High Court in **Manish Tandon vs. Richa Tandon and others 2008 (21) RCR (Criminal) 525** and Delhi High Court in **Braham Pal Arya vs. Babita Arya @ Kila Devi and others 2009 (12) RCR (Criminal) 699**.

5. I have heard learned counsel for the parties and perused the record.

6. From the perusal of the pleadings and arguments of both sides, following questions arise for the consideration of this court:

- i) Whether appeal in terms of Section 29 of the DV Act is maintainable against interim order passed by Magistrate under Section 23 of the DV Act?
- ii) Whether appellate court while hearing appeal under Section 29 of DV Act can pass interim order?

7. Before dwelling into issues involved, it would be inevitable to look at few provisions of the DV Act which are relevant for the

adjudication of controversy in hand. Sections 12, 23, 28 & 29 read as:

**12. Application to Magistrate.**

*(1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:*

*Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.*

*(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:*

*Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the*

*time being in force, be executable for the balance amount, if any, left after such set off.*

*(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.*

*(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.*

*(5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.*

### **23. Power to grant interim and ex parte orders.**

*(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.*

*(2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under Section 18, Section 19, Section 20, Section 21 or, as the case may be, Section 22 against the respondent.*

### **28. Procedure.**

*(1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).*

*(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.*

### **29. Appeal.**

*There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.*

8. From the reading of above quoted sections, it is quite evident that an aggrieved person may file petition to Magistrate, seeking reliefs as are permissible under different provisions of the D.V. Act. The Magistrate has power to pass final order granting reliefs permissible under different provisions of DV Act, however, in terms of Section 23, Magistrate has power to pass an order of interim maintenance. Expression 'order' has not been defined under DV Act.

Section 28 provides that all proceedings under Section 12, 18, 19, 20, 21, 22, 23, and 31 shall be governed by provisions of the Code of Criminal Procedure. As per Section 28, provisions of Cr.P.C. shall be applicable to proceedings under 12, 18, 19, 20, 21, 22, 23, and 31, however, it does not provide for application of all the

provisions of Cr.P.C. in toto to DV Act. It is further apt to notice that provisions of Cr.P.C. are not applicable to appeal provided under Section 29 of the DV Act. Ignoring appeal provisions adumbrated under Cr.P.C., appeal against an order of Magistrate is provided under Section 29 of the Act and it neither inhibits nor specifically provides for appeal against interim order.

**Question No. 1. Whether appeal in terms of Section 29 of the DV Act is maintainable against interim order passed by Magistrate under Section 23 of the DV Act?**

9. The Hindu Marriage Act like DV Act is a special statute and section 28 as originally stood underwent a substantial change in the year 1976. Unamended section 28 reads as under:

*“28. All decrees and orders made by the Court in any proceeding under this Act shall be enforced in like manner as the decrees and orders of the Court made in exercise of the original civil jurisdiction are enforced and may be appealed from under any law for the time being in force:*

*Provided that there shall be no appeal on the subject of costs only.”*

Under unamended provision, appeal was maintainable from all decrees and orders passed under the H.M. Act except against the order of costs. The Parliament w.e.f. 27.5.1976 substituted Section 28 with substantial changes. Amended section 28 of the H.M. Act reads as:



**S. 28.** “*Appeals from decrees and orders:—*

*(1) All decrees made by the Court in any proceeding under this Act, shall be subject to the provisions of sub-section (3), be appealable as decrees of the Court made in exercise of its original civil jurisdiction and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the Court given in exercise of its original civil jurisdiction.*

*(2) Order made by the Court in any proceeding under this Act under section 25 or section 26 shall, subject to the provisions of sub-section (3) be appealable **if they are not interim orders,** and every such appeal shall lie to the Court to which appeals ordinarily lie from the decisions of the Court given in exercise of its original civil jurisdiction.*

*(3) There shall be no appeal under this section on the subject of costs only.*

*(4) Every appeal under this section shall be preferred within a period of thirty days from the date of the decree or order.”*

From the bare reading of sub-section (1) & (2) of section 28 of the H.M. Act, it is quite evident that an appeal lies to appellate court against every decree passed under the Act, however, no appeal lies against interim

orders passed under Section 25 & 26 of the Act though appeal lies against final orders passed under Section 25 & 26 of the Act. It is, therefore, clear that by amended provisions of sub-section (2) of section 28, right of appeal against interim orders under sections 25 and 26 of the H.M. Act is expressly taken away.

10. DV Act is also a special statute and from the reading of Sections 28 & 29, it is quite evident that provisions of Cr.P.C. are not applicable qua appeal against orders passed by Magistrate under the Act. As per Section 397(2) of Cr.P.C. no revision lies against interlocutory orders. As per Section 372 of Cr.P.C. no appeal lies from a judgment or order of a Criminal Court except as provided for by the Code.

11. A constitution bench while dealing with different issues in *Union of India v. Elphinstone Spg. and Wvg. Co. Ltd.*, (2001) 4 SCC 139 has held that it is not possible for the legislature to anticipate every situation which may arise in future. The Hon'ble Court has held:

*14. The legislation in a modern State is actuated with some policy to curb some public evils or to effectuate some public benefit. The legislation is primarily directed to the problems before the legislature based on information derived from past and present experience. It may also be designed by use of general words to cover similar problems arising in future. But from the very nature of things, it is impossible to anticipate fully, the varied situations arising in future in which the application of the legislation in hand may be called for,*

*and, words chosen to communicate such indefinite reference are bound to be, in many cases, lacking in clarity and precision, and thus giving rise to the controversial question of construction. Bearing in mind the aforesaid general principles, let us now examine the five questions formulated earlier.*

12. The duty of Judges is to expound and not to legislate is a fundamental rule. They are thus finishers, refiners and polishers of legislation which comes to them. By no stretch of imagination, a Judge is entitled to add something more than what is there in the statute by way of a supposed intention of the legislature.

13. A coordinate bench of this court in **Balwinder Kaur (supra)** has held that order passed on application for interim relief is very much revisable before the Court of Session. The relevant paragraph read as:

*“There is force in the contention of learned counsel for the petitioners. A conjoint reading of Section 12 of the Act and Rule 6(5) of The Protection of Women from Domestic Violence Rules, 2006 (for brevity, the Rules) leaves no manner of doubt that the order passed on an application for interim relief is very much revisable before the Court of Session and as a consequence thereof, obviously, with the limitation as stipulated in the Code of Criminal Procedure for the purpose.”*

14. A single judge bench of Uttarakhand High Court in **Manish Tandon (supra)** has held that appeal is maintainable against interim order passed under Section 23 of DV Act. The relevant extracts read as:

3. *I totally and absolutely disagree with the aforesaid contention of Mr. Sharma. The word 'order' used in Section 29 connotes all types of orders passed by the Magistrates under the 2005 Act including orders granting interim maintenance under Sub-section (1) of Section 23 as well as ex- parte interim maintenance granted under Sub-section (2) of Section 23. Since the word 'order' has not been qualified by any suffix or prefix in Section 29, the clear legislative intent is that each and every type of order, irrespective of its description and nature, passed by a Magistrate has been made appealable to the court of Session Judge under Section 29. The remedy of filing an appeal under Section 29, therefore, being an alternative and equally efficacious remedy, this petition under section 482 Code of Criminal Procedure was not at all maintainable. It was not open to the Petitioner to have bypassed the appeal forum by straightway approaching this Court under section 482 Code of Criminal Procedure."*

15. A single judge of Delhi High Court in **Braham Pal Arya (supra)** while dealing with question of appeal against interim order has held:

7. *In Abhijit Bhikaseth Auti v. State of Maharashtra and Anr., reported in 2009 CRI. L.J. 889 Bombay High Court categorically held that an appeal will lie against*

*the order passed under Sub-section (1) and Sub-section (2) of the Section 23 of the said Act passed by the learned Magistrate.*

8. *This High Court in Amit Sundra & Ors. v. Ms. Sheetal Khanna, reported in 2008 CRI.L.J. 66 held that appeal under Section 29 of the said Act would be maintainable against the order passed by learned Magistrate granting said interim relief to a party in exercise of its power under the said Act. This view was expressed by the Court after scrutinising Sections 25 and 29 of the said Act.*

9. *In view of above discussion, I am of the opinion that the learned Additional Sessions Judge erred in coming to the conclusion that the order passed by the learned Metropolitan Magistrate was not appealable being purely an interlocutory order. Accordingly, I set aside the impugned order dated 19th July, 2008 and remand the appeal back to the learned Additional Sessions Judge, Rohini, New Delhi with the direction to dispose of the same in accordance with law.”*

16. From the perusal of Section 28 of HM Act and Section 397/372 of Cr.P.C., it stares that legislature wheresoever did not intent to provide for appeal against interim orders, it has specifically provided therein. In case of DV Act, there is provision for passing interim order as well as appeal,

however, there is no specific inhibition for filing appeal against interim order.

This Court finds itself unable to subscribe view of the co-ordinate bench of this court in **Balwinder Kaur (supra)**. Co-ordinate bench seems to be not apprised of Section 28, 29 of DV Act as well provisions of other enactments.

In the backdrop of above-cited judgments and keeping in mind provisions of HM Act as well Cr.P.C., this court is of the considered opinion that an appeal against interim order passed under Section 23 of DV Act is maintainable before Sessions Court under Section 29 of the DV Act.

**Q. No. 2. Whether appellate court while hearing appeal under Section 29 of DV Act can pass interim order?**

17. A two judge bench of Apex Court in *Shalu Ojha (supra)* as cited by petitioner, noticed question of power to grant interim while hearing appeal under Section 29 against interim maintenance granted under Section 23 of DV Act, however left the question open. The findings recorded by Apex Court read:

*20. Questioning the correctness of the Magistrate's order in granting the maintenance of Rs 2.5 lakhs per month the respondent carried the matter in appeal under Section 29 to the Sessions Court and sought stay of the execution of the order of the Magistrate during the pendency of the appeal. Whether the Sessions Court in exercise of its jurisdiction under Section 29 of the Act has any power to pass interim orders staying the execution of*

*the order appealed before it is a matter to be examined in an appropriate case. We only note that there is no express grant of power conferred on the Sessions Court while such power is expressly conferred on the Magistrate under Section 23. Apart from that, the power to grant interim orders is not always inherent in every court. Such powers are either expressly conferred or implied in certain circumstances. This Court in Super Cassettes Industries Ltd. v. Music Broadcast (P) Ltd. [(2012) 5 SCC 488 : (2012) 3 SCC (Civ) 1] , examined this question in detail. At any rate, we do not propose to decide whether the Sessions Court has the power to grant interim order such as the one sought by the respondent herein during the pendency of his appeal, for that issue has not been argued before us.*

**21.** *We presume (we emphasise that we only presume for the purpose of this appeal) that the Sessions Court does have such power. If such a power exists then it can certainly be exercised by the Sessions Court on such terms and conditions which in the opinion of the Sessions Court are justified in the facts and circumstances of a given case. In the alternative, if the Sessions Court does not have the power to grant interim orders during the pendency of the appeal, the Sessions Court ought not to have stayed the execution of the maintenance order*

*passed by the Magistrate. Since the respondent did not comply with such conditional order, the Sessions Court thought it fit to dismiss the appeal. Challenging the correctness of the said dismissal, the respondent carried the matter before the High Court invoking Section 482 of the Code of Criminal Procedure, 1973 and Article 227 of the Constitution.*

From the above quoted extracts of Hon'ble Supreme Court judgment, it is quite evident that Hon'ble Court has left the issue of power of appellate court to grant interim relief open. Thus, it would be appropriate to look at judicial precedents dealing with powers of appellate courts/tribunals.

18. Hon'ble Supreme Court in **State of Karnataka v. Vishwabharathi House Building Coop. Society, (2003) 2 SCC 412** while dealing with scope of incidental and ancillary powers of courts/tribunals has held:

*59. It is well settled that the cardinal principle of interpretation of statute is that courts or tribunals must be held to possess power to execute their own order.*

*60. It is also well settled that a statutory tribunal which has been conferred with the power to adjudicate a dispute and pass necessary order has also the power to implement its order. Further, the Act which is a self-contained code, even if it has not been specifically spelt out, must be deemed to have conferred upon the Tribunal all powers in order to make its order effective.*



61. *In Savitri v. Govind Singh Rawat (1985) 4 SCC 337 it has been held as follows: (SCC pp. 341-42, para 6)*

*“Every court must be deemed to possess by necessary intendment all such powers as are necessary to make its orders effective. This principle is embodied in the maxim ‘ubi aliquid conceditur, conceditur et id sine quo res ipsa esse non potest’ (where anything is conceded, there is conceded also anything without which the thing itself cannot exist). (Vide Earl Jowitt's Dictionary of English Law, 1959 Edn., p. 1797.) Whenever anything is required to be done by law and it is found impossible to do that thing unless something not authorised in express terms be also done then that something else will be supplied by necessary intendment. Such a construction though it may not always be admissible in the present case however would advance the object of the legislation under consideration. A contrary view is likely to result in grave hardship to the applicant, who may have no means to subsist until the final order is passed. There is no room for the apprehension that the recognition of such implied power would lead to the passing of interim orders in a large number of cases where the liability to pay maintenance may*

*not exist. It is quite possible that such contingency may arise in a few cases but the prejudice caused thereby to the person against whom it is made is minimal as it can be set right quickly after hearing both the parties.”*

**62.** *In Arabinda Das v. State of Assam AIR 1981 Gau 18 (FB), it has been held as follows: (AIR p. 31, para 22)*

*“We are of firm opinion that where a statute gives a power, such power implies that all legitimate steps may be taken to exercise that power even though these steps may not be clearly spelt in the statute. Where the rule-making authority gives power to certain authority to do anything of public character, such authority should get the power to take intermediate steps in order to give effect to the exercise of the power in its final step, otherwise the ultimate power would become illusory, ridiculous and inoperative which could not be the intention of the rule-making authority.*

*In determining whether a power claimed by the statutory authority can be held to be incidental or ancillary to the powers expressly conferred by the statute, the court must not only see whether the power may be derived by reasonable implication from the provisions of the statute, but also whether*

*such powers are necessary for carrying out the purpose of the provisions of the statute which confers power on the authority in its exercise of such power.”*

19. A three judge bench of the Hon'ble Supreme Court in **ITO v. M.K. Mohd. Kunhi**, AIR 1969 SC 430 while dealing with power of appellate tribunal, in the absence of specific provision, to grant stay while exercising powers of appellate authority has held:

*13. Section 255(5) of the Act does empower the Appellate Tribunal to regulate its own procedure, but it is very doubtful if the power of stay can be spelt out from that provision. In our opinion the Appellate Tribunal must be held to have the power to grant stay as incidental or ancillary to its appellate jurisdiction. This is particularly so when Section 220(6) deals expressly with a situation when an appeal is pending before the Appellate Assistant Commissioner, but the Act is silent in that behalf when an appeal is pending before the Appellate Tribunal. It could well be said that when Section 254 confers appellate jurisdiction, it impliedly grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution and that the statutory power carries with it the duty in proper cases to*

*make such orders for staying proceedings as will prevent the appeal if successful from being rendered nugatory.*

20. Hon'ble Supreme Court in **J.K. Synthetics Ltd. v. CCE (1996)** 6 SCC 92, while dealing with power of Customs, Excise and Gold (Control) Appellate Tribunal, to recall an ex-parte order has held:

*“6. If, in a given case, it is established that the respondent was unable to appear before it for no fault of his own, the ends of justice would clearly require that the ex parte order against him should be set aside. Not to do so on the ground of lack of power would be manifest injustice. Quite apart from the inherent power that every tribunal and court constituted to do justice has in this respect, Cegat is clothed with express power under Rule 41 to make such order as is necessary to secure the ends of justice. Cegat has, therefore, the power to set aside an order passed ex parte against the respondent before it if it is found that the respondent had, for sufficient cause, been unable to appear.”*

From the perusal of above-cited judgments, it is quite lucid that courts/tribunals are always possessed with incidental and ancillary powers which are necessary to adjudicate the dispute. Whether a power is incidental

or ancillary to power conferred by statute depends upon the necessity to carry out the power conferred by the Statute.

Under DV Act, Magistrate is competent to pass final as well as interim orders. Sessions Court is appointed as appellate authority to entertain appeal against order passed by Magistrate. As per petitioner, appellate Court is not specifically vested with power to grant interim relief, thus, appellate court cannot pass interim order staying operation of impugned order. If it is held that under Section 29 appellate court is not bestowed with power to pass interim order against interim order because there is no specific power under Section 29, the appellate court would be denuded from power to pass interim order even against final order because there is no such specific power qua final order. Existence of power and use of power are two different dimensions of legal jurisprudence.

Matter needs to be examined from one more angle. The appellate court may or may not exercise power to pass interim order, however, if it is held that appellate court in terms of Section 29 has no power to pass interim order, it would amount to curtailing the powers of appellate court. It seems to be contrary to settled canons of law that appellate authority or court unless specifically barred can exercise all those powers which are vested in subordinate authority. It cannot be approved that Magistrate has power to pass interim order, however, appellate court has no power to pass interim order. Due to overburden, more often than not, appellate courts are unable to finally adjudicate appeal against interim order and if it is held that appellate court has no power to pass interim order, Magistrate may finally decide the issue and appeal would become infructuous.

In view of above-cited judgments and settled principles of law, this court is of the considered opinion that appellate court while exercising powers under Section 29 of DV Act has power to pass interim order.

21. In view of above facts and findings, it is hereby held:

i) Appeal under Section 29 of the DV Act is maintainable against interim order passed under Section 23 of the DV Act.

ii) Appellate Court while exercising power under Section 29 of DV Act has power to pass interim order.

22. In the case in hand, the Magistrate granted interim maintenance of Rs. 60,000/- p.m. whereas Appellate Court has stayed beyond Rs. 15,000/-. The Magistrate passed interim order on 22.09.2022 and Appellate Court passed impugned order on 18.10.2022. The petitioner is strenuously contending that she is unable to maintain herself and her child whereas respondent is claiming that amount determined by Magistrate is exorbitant. The appellate court has not applied its mind to merits of the case and maintenance awarded is interim, thus, it would be in the fitness of things and interest of justice if Appellate Court is asked to finally adjudicate the appeal within 2 months from the date of receipt of certified copy of this order.

Accordingly, present petition is disposed of with a request to appellate court to decide appeal within 2 months from the date of receipt of certified copy of this order.

23. Before parting with the judgment, it would be apt to notice that as per petitioner till date she has received Rs. 90,000/- whereas respondent is claiming that he has already paid a sum of Rs. 1,20,000/-. Counsel for the

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respondent in the court handed over proof of payment of Rs. 1,20,000/- to the learned counsel for the petitioner.

Be that as it may, the Appellate Court before taking up the appeal is requested to make sure that the appellant has cleared all the outstanding dues @ Rs. 15,000/- per month.

24. Nothing expressed hereinbefore shall be construed as opinion of this Court on merits of the case and Appellate Court shall decide appeal on its merits, without being influenced by observations of this Court.

Pending Misc. applications, if any, shall stand disposed of.

( JAGMOHAN BANSAL )  
JUDGE

28.02.2023

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Whether speaking/reasoned : Yes

Whether reportable : Yes

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