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% 21.08.2008

Present: Mr. Hameed S. Sheikh for the petitioner.  
Mr. V.S. Pandey for the respondent.

**+ CrI.M.C.No. 2725/2008 & CrI.M.A Nos. 10026-27/2008**

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By way of the present petition filed under Section 482 Cr.P.C., the petitioner seeks to challenge the order dated 18.3.2008, whereby the learned M.M. while deciding the application of the petitioner seeking interim maintenance under Section 125 Cr.P.C. has given directions for payment of Rs. 20,000/- P.M. to the present petitioner, from the date of filing of the application till the disposal of the petition.

Feeling aggrieved with the said order the petitioner has preferred the present petition.

Counsel for the petitioner submits that the income of the respondent is not less than Rs.10 lacs p.m., but ignoring the said fact the court has awarded a meagre amount for interim maintenance. Counsel contends that the respondent husband in his reply to the said application moved by the petitioner has

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nowhere denied the said income of the respondent as stated by the petitioner. Counsel thus contends that the petitioner is entitled for maintenance of Rs.2 lac per month as claimed by her in the said application.

I have heard learned counsel for the petitioner at considerable length and have perused the record.

The learned trial court has decided the application moved by the petitioner as well as by her daughter Baby Vardha seeking interim maintenance for their sustenance during the pendency of the respective petitions filed by them under Section 125 Cr.P.C. The court while deciding the said joint application has given directions for the payment of Rs.20,000/- per month towards the interim maintenance to the present petitioner and has rejected the prayer made by the petitioner on behalf of her daughter. A separate petition has already been filed by the petitioner on behalf of her daughter before this Court in which notice has already been directed.

In the present petition the main grievance of the petitioner is that the concerned M.M. has ignored the averment

made in the said application alleging the income of the respondent as Rs.2 lac p.m. and more particularly when the said factum was not denied by the respondent in reply to the said application. The contention as raised in the present petition appears to be totally devoid of any force as in the reply filed by the respondent it has been categorically stated that in matrimonial case filed by the respondent the maintenance of Rs.25,000/- was fixed while deciding the case of the petitioner under Section 24 of HMA and the said order was challenged by the respondent before the Hon'ble High Court in CR No. 397/2001, wherein the said amount was reduced from Rs.25,000/- to Rs.15,000/-. It is needless to mention that the said amount of maintenance was both for the petitioner as well as for her daughter. Although, the said revision petition is still pending which is being contested by the present petitioner, yet I do not find that there is any illegality or perversity in the order passed by the learned M.M. in granting interim maintenance @ Rs.20,000/- to the petitioner. The parties are yet to lead their respective evidence and during the course of trial both the parties can satisfy the court with regard to the exact income of the respondent or of the petitioner if any. This is not a stage for the High Court to interfere as only interim direction has

been given and such directions are in consonance with the directions given by the High Court, whereby the amount of Rs.25,000/- was reduced to Rs.15,000/- .

There is no merit.

Dismissed.



**KAILASH GAMBHIR, J**

**August 21, 2008**  
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