

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

Date of Reserve: 18th November, 2010

Date of Order: 22nd November, 2010

+ Crl.M.C.No. 418/2009

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22.11.2010

Sumer Singh Salkan

... Petitioner

Through: Ms. Neelam Grover with
Ms. Kamlesh Mahajan, Advocate

Versus

Reema

... Respondent

Through: Respondent-in-person

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

By this petition, the petitioner has assailed an order dated 18th August, 2008 whereby a revision petition filed by the petitioner against an order dated 29th September, 2007 of the learned MM fixing maintenance of ₹25,000/- per month was dismissed. It is submitted by the Counsel for the petitioner that the petitioner had all along lived in Canada. Marriage between the petitioner and the respondent did not click and differences arose soon after the marriage with the result that the petitioner and respondent did not live together. While the petitioner remained at Canada; the respondent remained at India. The respondent's relatives were occupying high position in police with the result that respondent launched various prosecutions and criminal cases against the petitioner and an LOC (Look Out Circular) was issued against the petitioner. For this reason that petitioner could not come to

India and prosecute the case. The advocate appointed by the petitioner to take care of maintenance case also did not properly prosecute the case and petitioner suffered ex-parte order under Section 125 Cr.P.C. wherein the petitioner's version could not at all be considered by the MM, the petitioner being ex parte.

2. Without going into merits of the case and looking at the fact that the execution petition filed by the respondent was pending since long, it would be appropriate if the petitioner is given opportunity to lead evidence before the trial Court on furnishing adequate, security so that whatever order is passed by the trial Court is also executed and the respondent is not again left high and dry as the petitioner is not resident of India.

3. The petition of the petitioner is allowed subject to condition that the petitioner shall furnish a bank guarantee of ₹10 lac or shall deposit an amount of ₹10 lac with the trial Court within six weeks so that whatever order is passed by the trial Court is duly executed. The petitioner is given liberty to lead evidence before the trial Court and the trial Court shall decide the case of maintenance on merits after considering the evidence of both the sides. The order dated 29th September, 2007 of the trial Court fixing maintenance is set aside subject to above condition and subject to condition that the petitioner shall continue to pay the maintenance @ ₹10,000/- per month as already ordered by this Court all along during this period. The petitioner shall produce the entire evidence before the trial Court at one go and trial Court shall record the evidence of the petitioner on day-to-day basis without postponing or adjourning the matter for any reason whatsoever. The trial Court shall fix the dates for recording of evidence as per convenience of the parties within 30

days of the deposit of ₹10 lac or giving bank guarantee of ₹10 lac. Once the dates for evidence are given, these dates shall be adhered to by both the parties and on the dates for recording evidence no adjournment shall be given. In case the condition of deposit of amount is not complied with; this petition shall stand dismissed.

With these directions the petition stands disposed of.

November 22, 2010

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SHIV NARAYAN DHINGRA, J.