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

+ CRL.M.C. 1581/2010

A S KELA ..... Petitioner

Through Mr. Kamlesh Uniyal, Adv.

versus

CHANDRA MESHWARI & ANR .... Respondent

Through Mr. Jitendra Singh, Adv. for R-1.  
Mr. Arvind Kr. Gupta, APP.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**ORDER**

% **28.09.2010**

1. Order dated 12<sup>th</sup> May, 2010 reads as under:-

“The present petition under Section 482 of the Code of Criminal Procedure, 1973 is directed against the order dated 12<sup>th</sup> April, 2010 passed by the learned Additional Session Judge dismissing the appeal filed by the petitioner and upholding the order dated 19<sup>th</sup> November, 2009 passed by the learned Metropolitan Magistrate granting interim maintenance under the Protection of Woman from Domestic Violence Act, 2005.

Learned counsel for the petitioner has submitted that the petitioner and the respondent did not have any live in relationship or marriage. This aspect has been considered by both the trial court and the learned Additional Session Judge in the impugned orders in great detail. The complaint also is a detailed one in which the respondent has set out facts of her relationship with the petitioner. The respondent has alleged that a male child was born on 25<sup>th</sup> April, 1995 and the petitioner herein is the father of the said child. The respondent has filed on record documents in support of her contention that the petitioner is the

father of the said child. The petitioner along with this petition has filed a copy of the alleged adoption deed dated 30<sup>th</sup> April, 2001 for adoption of a minor child age six years. The said adoption deed has been purportedly executed by the respondent as a natural mother. She has pointed out that the respondent shifted to B-1/3, Pharma Apartments, Plot No.88, Patparganj, Delhi-92. Admittedly title deed of the said apartment is in the name of the petitioner. The respondent however claims that the said apartment was purchased from her money. The prima facie facts found by the trial court and the learned Additional Session Judge do not require interference by this Court in exercise of discretionary jurisdiction under Section 482 of the Code of Criminal Procedure, 1973. I am, therefore, not inclined to interfere with the impugned order on the question whether the respondent is entitled to interim maintenance/order.

Learned counsel for the petitioner at this stage submits that the quantum of maintenance of Rs.25,000/- and Rs.16,000/- granted to the respondent and her son is abnormally high and not warranted, keeping in view the annual income of the petitioner. Attention of the learned counsel for the petitioner was drawn to paragraph 22 of the order passed by the learned Metropolitan Magistrate. The petitioner has not filed his income tax returns with the present petition. Counsel for the petitioner prays for an adjournment to place on record the income tax returns.

Relist on 7<sup>th</sup> July, 2010.

It is clarified that the interim orders passed have not been stayed.”

2. The petitioner has now filed copy of the income tax return for assessment year 2009-10. The petitioner has disclosed gross total income of more than Rs. 30 lacs though in the Court it was stated that the

petitioner only has income of Rs. 3 lacs per annum.

3. Copy of the petition filed before the trial court under the Protection of Women from Domestic Violence Act, 2005 records details of the property owned by the petitioner. The said details read as under:-

“(A) Jai Sri Krishna Sadan, Samad Road, Aligarh, (U.P.) constructed in about 600 sq. mtrs.

(B) Anand Metal Works (Factory, Samad Road, Aligarh (U.P.) constructed in 2000 sq. mtrs.

(C) Hotel Anand Palace constructed in 2000 sq. mtrs. At Samad Road, Aligarh (U.P.).

(D) Parking adjoining to hotel Anand Palace, measuring about 2000 sq. mtrs.

(E) Kothi at Meriee Road Aligarh (U.P.) constructed in 1000 sq. mtrs.

(F) Kothi at Jai Ganj, Aligarh (U.P.) and one factory in name of Anand Metal Work constructed in 2500 sq. mtrs.

(G) Kela Farms in about 100 acres, Aligarh-Hathras Road, U.P.

(H) A big Ashram at Brindaban, well constructed in about 100 acres.

(I) Residential luxurious big Banglow adjoining to Ashram Anand Dham, Total number of Banglows is 77, at Brindaban District Mathura, (U.P.)

(J) Land measuring 100 acres under construction at Chchatikara, Nandan Ban, Brindaban District Mathura, (U.P.)

(K) Plot/land measuring about 10000 Sq. Mtrs at Ram Garh Road, Aligarh (U.P.).

(L) Flat No.414, Ansal Building, Anand Dham Apartmens near Gayatri Kunj, Tapo Bhomi, Har Ki Podi, Haridwar, Uttranchal.

(M) One flat at Dayan Nand Ashram, Rishikesh, Uttranchal.

(N) Opposite to Anand Dham, two storey building, constructed in 1000 sq. mtrs. Parkrama, Raman Reti,

Brindaban, District Mathura (U.P.).

(O) One society Flat NO.125, 1<sup>st</sup> Floor, Block-C, Category-C, at Milan Vihar, 72, I.P. Estate Extension, Delhi, Recently sold to avoid the claim of the applicant.

(P) One society flat No.601, 6<sup>th</sup> Floor, Category-A, at Milan Vihar, 72, I.P. Estate Extension, Delhi recently sold to avoid the claim of the applicant.

4. It is noticed that specific details have been given.

5. Learned counsel for the petitioner has submitted that the respondent No.1 had filed an application under Section 125 Code of Criminal Procedure, 1973, which was disposed of vide order dated 4<sup>th</sup> October, 2006. By the said order, maintenance @ Rs. 2,500/- per month was awarded to Master Subal and no maintenance was awarded to Smt. Chandra Maheshwari. I have examined the said order. The said order does not record or state the basis for fixing maintenance @ Rs. 2,500/- per month. The impugned order dated 19<sup>th</sup> November, 2009 has been passed by the Metropolitan Magistrate, Mahila Court after noticing and recording that the petitioner is an industrialist and is having a flourishing business of Metal Works and has been awarded certificate in appreciation of outstanding export performance for the year 1995-1995. It is noticed that the order dated 19<sup>th</sup> November, 2009 has been passed after examining the moveable and immovable wealth, which the petitioner has.

6. There is no merit in the present petition and the same is dismissed.

**SANJIV KHANNA, J.**

**SEPTEMBER 28, 2010**

**NA/VKR**