

03.

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

+ CM(M) 803/2010

% Date of Judgment 11th November, 2010

RAHUL SETHI

..... Petitioner

Through : Mr. Anil Kumar Thakur, Adv. along with the
petitioner.

versus

NEHA SETHI

..... Respondent

Through : Mr. Dr. R.S. Saran, Adv. along with the
respondent.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

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

G.S.SISTANI, J (ORAL)

1. Present petition is directed against the order dated 19.4.2010 passed by learned Additional District Judge, Delhi, on an application filed by the respondent wife under Section 24 of the Hindu Marriage Act in HMA No.242/2009 whereby the petitioner husband was directed to pay to the respondent @ ₹10,000/-, per month, as maintenance, w.e.f. the date of filing of the present petition i.e. 27.7.2009.
2. Brief facts of the case are that marriage between the parties was solemnized on 30.3.2009. Parties are stated to have resided together only for a period of two months after which parties have been residing separately. It is not in dispute that petitioner husband had filed a petition being HMA No.242/2009 under Section 9 of Hindu Marriage Act for restitution of conjugal rights

and during the pendency of this petition the respondent had filed an application under Section 24 of the Hindu Marriage Act for maintenance. The said petition under Section 9 has since been dismissed for non-prosecution. The application under Section 24 of the Hindu Marriage Act was allowed and the trial court has directed the petitioner husband to pay maintenance to the respondent wife @ ₹10,000/-, per month, w.e.f. the date of filing of the application i.e. 27.7.2009.

3. Notice in this matter was not issued, however, only a direction was issued to the respondent to remain present in court with a view to explore the possibility of a settlement taking into consideration the age of the parties and the fact that parties stayed together only for a period of two months. Today, it is submitted by counsel for the parties that there is no possibility of any settlement.
4. Learned counsel for the petitioner submits that petitioner is a student and he has no independent source of income. Counsel further submits that learned trial court has come to an erroneous decision based on an invitation card of the marriage reception, a copy of which has been filed at page 64 of the paper book, which shows the various business activities of the petitioner. Counsel also submits that business activities are not being carried out by the petitioner who is only a student.
5. Heard counsel for the parties and also perused the impugned order dated 19.4.2010 passed by learned trial court. Learned trial court has considered the rival contentions of both the parties wherein the respondent wife had asserted that petitioner is a member of joint family and is running the joint family business.

The family is residing at property bearing no.B-35, Sharda Puri, Ramesh Nagar, New Delhi, which is owned by them. It has further been asserted before the trial court that petitioner is running a flourishing business of medicines apart from other business and is earning ₹52000/- to ₹55000/-, per month. Further the family of the petitioner owns four vehicles apart from a motor cycle which is for exclusive use of the petitioner. It has also been averred that petitioner has also got a share in Rishi Medicos from which he is earning ₹30,000/- to ₹35,000/-, thus, showing the total income of the petitioner between ₹80,000/- to ₹90,000/-, per month. In reply to the application, the petitioner husband had asserted that he is a student of LL.B. from Meerut University and is dependent upon his parents. He also denied that he owns property and is running a business. However, the petitioner has admitted before the trial court that the motor-cycle was purchased by his parents for his personal use.

6. Learned trial court while considering the application under Section 24 of the Hindu Marriage Act has taken into consideration the facts of the case and also the settled position of law as laid down in the case of ***Bharat Hegde v. Saroj Hegde***, reported at 1 (2007) DMC 815.
7. Petitioner, who is present in Court, does not dispute that he had taken admission in the LL.B. three years course since the year 2005-2006, however, he has not been able to clear the same. He submits that he has not been supported by his parents but now he is carrying on a small business of supply of goods to chemists.
8. While learned counsel for the petitioner submits that petitioner has no source of income and he is only a student pursuing LL.B.

course, learned counsel for the respondent, while placing reliance on the marriage invitation card, has strongly urged before this Court that petitioner is a man of means. It is submitted by counsel for the respondent that invitation card suggests that petitioner belongs to a business family, who are carrying on various businesses such as Sethi Property dealers, Maa Rani Restaurant and Banquet, Rishi Medicos, Cheap and Best Tailors, Syndicate Pharmaceuticals and Sethi Service Station.

9. During the hearing of this matter, petitioner, who is present in Court has stated that he is carrying on a small business of supply of medicines/goods to chemists. The marriage card shows that family of the petitioner is carrying on the business in the name and style of Rishi Medicos and Syndicate Pharmaceuticals, which would show that petitioner is involved in the same or similar business. Petitioner has not been able to show that respondent has any source of livelihood or she is gainfully employed. Another submission made by learned counsel for the petitioner is that petitioner's parents have disowned him. I find no force in the submission made by learned counsel for the petitioner in view of the fact that address in the petition filed by the petitioner before the trial court is the same, which is the address of his father.
10. The courts while dealing with an application under Section 24 of the Hindu Marriage Act, must take into consideration the status of the parties as also it should be seen that the order should neither be punitive in nature nor the maintenance awarded should be so low as to make the order meaningless. The court must also ensure that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and

the mode of life she was used to when she lived with her husband in her matrimonial home.

11. Having regard to the facts of this case and on perusal of the impugned order dated 19.4.2010, I find no infirmity in the same. Accordingly, there is no merit in the present petition, the same is dismissed.

November 11, 2010
'msr'

G.S. SISTANI, J.