

02.

\*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

*Judgment Delivered on: 17.09.2010*

+ CM(M) 1187/2009

RAVI PANCHAL

..... Petitioner

Through : Mr. Anil Kumar Sangal, Mr. Deba  
Prasad Mahanty and Mr. Avjit  
Bhushan, Advs.

versus

NEERU PANCHAL

..... Respondent

Through : Mr. A.N. Sharma, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to 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 29.8.2009 passed by Additional District Judge (HMA), Delhi, on an application filed by the respondent wife under Section 24 of the Hindu Marriage Act in HMA No.21/09, by virtue of which, the petitioner husband was directed to pay maintenance @ ₹18104/-, per month, to the respondent wife and her minor daughter (₹ 9052/- each for the respondent/wife and the minor daughter).
2. Learned counsel for the petitioner submits that while passing the order dated 29.8.2009 the trial court has failed to take into consideration two important factors that is the repayment of installment of two loans by the petitioner, one,

Signature Not Verified

Digitally Signed By: AMULYA  
Certify that the digital file and  
physical file have been compared and  
the digital data is as per the physical  
file and no page is missing.

CM(M)NO.1187/2009

Page 1 of 4

6

in the sum of ₹9452/-, per month, and the, second, in the sum of ₹2950/-. Counsel further submits that the first loan was taken by the petitioner at the time of his marriage on 28.10.2006 from City Bank and the second loan has been taken by the petitioner for the purchase of Maruti 800 car in May, 2004. Counsel also submits that the salary slip, which has been placed on record, would show that the net salary of the petitioner is ₹25480.41 after deductions. Counsel next submits that the respondent is in fact more educated than the petitioner and she is capable of earning.

3. Learned counsel for the respondent submits that the learned trial court has taken various factors into consideration. Counsel for the respondent points out that the respondent has to look after herself and her minor daughter and she has no source of livelihood. Counsel further submits that petitioner is leading a luxurious life and the respondent is to be provided with a similar status, which she was enjoying at the time of her marriage.
4. It is submitted by counsel for the parties that a decree of divorce has since been granted on 12.7.2009.
5. I have heard counsel for the parties, perused the order passed by learned trial court as also the salary slip of the petitioner, a copy of which has been placed on record, which give a clear picture of the salary of the petitioner [₹ 40294.00 (Gross) and ₹ 25480.41 (net salary)], which is being received

7

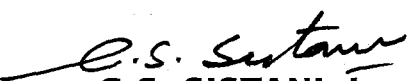
by the petitioner. I find force in the submission made by counsel for the petitioner that some benefit should be given to the petitioner for the loan taken by him at the time of his marriage, however, it is also to be considered that petitioner is residing with his parents in a family house, which is owned by his father and the petitioner has the benefit of boarding and lodging. While deciding an application under Section 24 of the Hindu Marriage Act, the Court must take into consideration the facts of each case, the capacity of husband to pay must be considered having regard to his reasonable expenses for his own maintenance and the order should not be punitive in nature. I am of the view that the trial court should have given some benefit to the petitioner for the loan taken by him at the time of marriage. Accordingly, taking into consideration the facts of this case, the maintenance is reduced from ₹18104/-, per month, to ₹16000/-, per month, (in total) to be payable to the respondent wife and the minor daughter. This payment is to be made from the date of filing of the application till 12.7.2010 when decree of divorce has been granted. The extra amount, which has been paid, shall be refunded to the petitioner within a period of six months from today.

6. Accordingly, petition stands disposed of in view of above.

8

**CM NO.15017/2009 (STAY).**

7. Application stands disposed of in view o the orders passed in  
the petition.

  
G.S. SISTANI, J.

**September 17, 2010**  
'msr'