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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM(M) 1718/2004

% ***Judgment Delivered on: 30.05.2011***

Anupam Gupta

..... Petitioner

Through : Mr. Sanjay Agnihotri for the petitioner along
with father of the petitioner

versus

Sumeet Gupta

..... Respondents

Through : Mr. Jagdev Singh & Mr. Arvind Mishra
advocates for the respondent along with
the respondent

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)

+ CM(M)NO.1718/2011.

1. Present petition is directed against the order dated 14.10.2004 passed by learned Additional District Judge, Delhi, on an application filed by the respondent (wife), seeking maintenance for herself and her minor daughter, who is stated to be fourteen years of age presently. Vide the said order the trial court has directed the petitioner to pay the respondent wife a sum of Rs. 35,000 per month and a sum of Rs. 15,000 per month for the minor daughter.
2. Learned counsel for the petitioner submits that while deciding the application filed by respondent under Section 24 of Hindu Marriage

Act, the trial court has erred in granting maintenance of Rs 50,000 per month to the respondent and the minor daughter. It is submitted by the counsel for the petitioner that the trial court has erred in assessing the income of the petitioner @ Rs.1.00 lac without any reasonable basis for arriving at the said figure. It is next submitted that the petitioner is working as a director in Overseas Courier Services and draws a monthly income of Rs.16,400/- from his employment. It is further submitted that the trial court has without taking into consideration the salary of the petitioner awarded maintenance to the respondent wife in excess only on the basis that the petitioner has a major share in 'family business' namely in Overseas Courier Services, which is an agent of an international courier company. It is submitted by the counsel for the petitioner that the trial court has erroneously reached a conclusion that the petitioner jointly owns major movable and immovable properties. The counsel further submits that the properties sought to be relied upon by the Court are in the name of Shri M. L Gupta i.e. the petitioner's father. Ld. Counsel next submits that the trial court while awarding maintenance has included the assets given to the petitioner by his father on account of natural love and affection. The counsel for the petitioner next submits that the properties purported to be joint family properties, in fact belong to the petitioner's father and are not joint properties. The petitioner has placed copies of ownership and proofs to substantiate his claim. It is next submitted by the counsel for the petitioner that the

trial court has speciously lifted the corporate veil and further has also included the business income and assets in the personal income and assets of the petitioner. Accordingly, it is submitted that the trial court has erred in passing the impugned order.

3. Counsel for the petitioner submits that the trial court has wrongly drawn an inference that the petitioner has not made specific denial to the averments stated in the maintenance application filed by the respondent and accordingly the trial court has erroneously considered all the averments made by the respondent as accepted by the petitioner. The counsel for the petitioner submits that it is primarily on this flawed premise that the trial court has passed the impugned order. Mr.Agnihotri, Advocate, submits that the trial court has drawn a wrong inference with regard to the fact that the petitioner in his reply to section 24 application has not made any specific denials. It is submitted by the counsel for the petitioner that the petitioner had made clear unambiguous statements with regards to the fact that the petitioner was not the absolute owner of the property situated at House No.M-225, Greater Kailash-II, New Delhi as the same was purchased with a loan of Rs. 45.00 Lac from the petitioners father. It is next submitted by the counsel for the petitioner that the trial court has drawn an incorrect inference that the petitioner has not been able to give any reasonable explanation with regards as to how was he making repayments of the loan despite earning a trivial sum of Rs. 16,400/- per month. Counsel next submits that the trial court has without any reasonable basis

opined that the actual price of the property at Greater Kailash was much higher than the actual sale consideration shown. Counsel submits that the above averments were held to be true only on the incorrect idea that the petitioner failed to make specific denials to the averments.

4. It is next submitted by the counsel for the petitioner that the expenses of travelling, boarding, lodging and frequent travels abroad that have been shown to be reflective as a status of the petitioner, whereas the expense were incurred in the course of business and accordingly were paid by the company or the principal agent. Learned counsel further submits that the expenses of the above nature were incurred not only for the petitioner but were incurred for all sub agents by the company.
5. It is next submitted that during pendency of the matter before the trial court, the respondent had filed an application under order 11 Rule 12 of Civil Procedure Code seeking directions from the trial court to the petitioner to produce various documents inter alia the tax returns, balance sheets, memorandum of association. It is submitted that the petitioner filed a reply to the said application and filed a copies of the income tax return for the previous year and other documents. In the reply to the application the petitioner had clarified that the petitioner was a sub agent of Overseas Courier Services of India from 01.10.1985 to 31.03.1994 and thereafter the petitioner along with his brother and sister started the concern, namely, Overseas Courier Services. It is also the

stand of the learned counsel for the petitioner that the income tax return filed for the year 1993-94 pertained to the period when the petitioner was independently working as the sub agent of the Courier Company. It is further submitted by the counsel for the petitioner that the sub tenancy was terminated by the principles w.e.f. 31.03.1994 after which the petitioner became a whole time director in the company. The petitioner has placed on record copies of his income tax returns for the year 1994-95 showing his income at Rs.738670/-. The income-tax return filed for the period 1997-98 shows the income of the petitioner as Rs.42,000/- per annum. Counsel for the petitioner has submitted a summary of income tax returns. The same is reproduced in the table below:

<u>Previous Year</u>	<u>Assessment year</u>	<u>Amount (Rs.)</u>
1993-94	1994-95	7,38,670/-
1994-95	1995-96	54,000/-
1995-96	1996-97	60,000/-
1996-97	1997-98	2,40,000/-
1997-98	1998-99	2,40,000/-
1999-2000	2000-01	2,40,000/-

The returns of the petitioner for subsequent years are as follows:

<u>Previous Year</u>	<u>Assessment year</u>	<u>Amount (Rs.)</u>
2000-01	2001-02	2,40,000/-
2001-02	2002-03	2,40,000/-
2002-03	2003-04	2,40,000/-
2003-04	2004-05	2,70,000/-

6. It is further submitted by counsel for the petitioner that the respondent is not in any need of maintenance as she herself is a

qualified fashion designer and belongs to a very well to do family. It is next submitted that the respondent with the intent to harass the petitioner has engaged in such time consuming and fabricated litigation.

7. The counsel for the petitioner further submits that the respondent has misled the trial court by filing voluminous documents on record. The Counsel submits that it has been wrongly suggested by the respondent that the petitioner is a man of means and is capable of paying maintenance so awarded. The counsel submits that the assets and the comforts that were provided to the petitioner by his father were on account of the love of the father son relationship. Ld. Counsel next submits that it cannot be said that the petitioner was incurring all such expenditure out of his own pocket. Accordingly the counsel submits that the order of the trial court is erroneous and is liable to be set aside.
8. Counsel for the respondent has refuted the allegations and averments made by the counsel for the petitioner. Counsel for the respondent submits that there is no infirmity in the order of the trial court. It is next submitted that the trial court has only after duly weighing the pleadings has reached a conclusion that the petitioner is concealing his income despite being a man of means and has passed the a well reasoned order. It is the contention of the respondent that as rightly opined by the trial court the petitioner is a man of means and is extremely well off. It is further submitted by the counsel for the petitioner that in order to deny

the legitimate maintenance due to the respondent and the minor daughter, the petitioner has been manipulating the records of the family business to show low income and accordingly the petitioner has not come to court with clean hands. Counsel next submits that the petitioner has not made any specific denial to the averments and has accordingly, held that the petitioner had admitted to the averments made by the respondent. Accordingly, it is submitted that the trial court has reached to a correct conclusion based on cogent reasons that the respondent is a man of means and has rightly awarded the maintenance @ Rs. 50,000/-.

9. It has been vehemently denied by the counsel for the respondent that the petitioner is earning a sum of Rs. 16,400/- per month. It is submitted by the counsel for the respondent that the petitioner has not disclosed his true income. Learned Counsel submits that the petitioner despite denying that the business was not a family business has made admissions in his written statement that the business of the petitioner was a family business. Counsel for the respondent has drawn the attention to the written statement of the petitioner.

10. It is next submitted that the concealment of the petitioner can be seen from the fact that the petitioner has in the reply to section 24 application mentioned that the petitioner has no fixed deposits, shares or any other source of income. However, the petitioner in his reply to the application filed under Order XI Rule 12 of Civil Procedure Code stated that he owns 350 shares of Rs.10/- each in

Overseas Consultancy Services. The counsel for the respondent further submits that the price of each share has been wrongly disclosed and with an intent to only suppress the income/assets of the petitioner. The petitioner has disclosed the price of each share to be Rs.10/- as against Rs.11,000 as mentioned in the articles of association of the company. Counsel for the respondent has drawn the attention of this court to the articles of association of the Overseas Consultancy Services wherein the base price of each share is mentioned as Rs. 11,000. It is next submitted that the plea of the petitioner, that he is a director drawing a paltry salary and does not have any interest or owns any of the movable or immovable properties that belong to the Overseas Courier Services is fabricated. The counsel submits that the company though running in the name of the father is a family concern in which the petitioner and his siblings have an interest. In order to show that the petitioner has an interest in the family business, Ld. Counsel for the respondent has submitted that the petitioner has transferred some shares to his father without taking any consideration from him. Counsel for the respondent has drawn the attention of this court to the affidavit dated 17.03.2009 filed by the petitioner at page 370 wherein the petitioner has admitted that he had received Rs. 44 Lac from the sale of shares which were held by him in the Overseas consultancy services. Counsel for the respondent submits that in view of the above submission of the petitioner that the price of each share was Rs. 10 cannot be believed. It is further submitted

that Counsel for the petitioner has refuted this submission and stated that the amount received from sale of shares in any case cannot be included in the income of the petitioner while determining maintenance as the same was made in the year 22006-2007 i.e. after the divorce was granted.

11. Counsel for the respondent has also drawn the attention of the court to an affidavit dated 24 March 2011, filed by the respondent stating that the petitioner's act of concealing the income is clear from the fact that the petitioner did not disclose that he was also the owner of M/s. Pancea Corporation. The petitioner vide the said firm was carrying out the trading and exporting tea, spices etc. It has been further submitted in the affidavit that the petitioner is holding 1200 shares as against the 350 shares in Overseas Courier Corporation. The counsel for the petitioner has vehemently opposed the reading of the affidavit as the same was filed by the respondent after a delay of two years after all opportunities of the respondents was closed.

12. It is next submitted by the counsel for the respondent that an idea about the status of the petitioner can well be drawn from the fact that he is a member of Hyatt Hotel. It is vehemently denied by the counsel for the respondent that the petitioner travels abroad for business purposes. The counsel submits that the petitioner in the year 1999 went to see the world cup to London and often indulged in such luxury trips 3-4 times a year. It is further submitted that the

petitioner stayed in Bombay for a considerable period and used to stay in hotels spending about Rs. 1.5 to 2 Lac per month.

13. Counsel for the respondent in summing up his arguments submits that there is no infirmity in the order of the trial court. The order of the trial court is fairly detailed and has taken into account all relevant factors. Counsel further submits that in the present case the petitioner has not disclosed his true income and accordingly the court must resort to some guess work in order to ascertain the true income of the petitioner. The counsel for the respondent has placed reliance on ***Jasbir Kaur Sehgal (Smt.) v. District Judge, Dehradun & Others***, reported at (1997) 7 Supreme Court Cases 7 in support of this plea.

14. I have heard counsel for the parties and have also carefully perused the order dated 14.10.2004 passed by learned trial court. In instant case, basic facts are not in dispute that the marriage between parties was solemnized on 11.02.1990. One daughter was born out of the wedlock who is stated to be 14 years of age presently. Further, the minor daughter is in the care and custody of the respondent. Admittedly the respondent has remarried in the year 2008.

15. In the instant case the primary grievance of the petitioner is that the trial court has notwithstanding the salary of the petitioner has reached at an incorrect conclusion that the petitioner (husband) is a man of means and is the owner of various immovable and movable properties. The counsel for the petitioner has submitted

that the trial court has erred in disbelieving the documents placed on record inter alia the income tax returns.

16. It is a settled position of law that a wife is entitled to live in a similar status as was enjoyed by her in her matrimonial home. It is the duty of the courts to ensure that it should not be a case that one spouse lives in a life of comfort and luxury while the other spouse lives a life of deprivation and poverty. During the pendency of divorce proceedings the parties should be able to maintain themselves and should be sufficiently entitled to be represented in judicial proceedings. If in case the party is unable to do so on account of insufficient income, the other spouse shall be liable to pay the same.

17. In the case of **Jasbir Kaur Sehgal (Smt.) v. District Judge, Dehradun & Others**, reported at (1997) 7 Supreme Court Cases 7, it has been held as under:

“8. No set formula can be laid for fixing the amount of maintenance. It has, in the very nature of things, to depend on the facts and circumstance of each case. Some scope for liverage can, however, be always there. Court has to consider the status of the parties, their respective needs, capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and of those he is obliged under the law and statutory but involuntary payments or deductions. 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 and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount so fixed cannot be excessive or extortionate. In the circumstances of the present case we fix maintenance pendente lite at the rate of Rs.5,000/- per month payable by respondent-husband to the appellant-wife.”

18. Further it has been noticed by the Courts that the tendency of the spouses in proceedings for maintenance is to not truthfully disclose their true income. However, in such cases some guess work on the part of Court is permissible. A Single Judge of this Court in the case of ***Bharat Hegde v. Saroj Hegde***, reported at 140 (2007) DLT 16, had culled out following 11 factors, which can be taken into consideration for deciding the application under Section 24 of Hindu Marriage Act, relevant portion of which reads as under:

8. Unfortunately, in India, parties do not truthfully reveal their income. For self employed persons or persons employed in the unorganized sector, truthful income never surfaces. Tax avoidance is the norm. Tax compliance is the exception in this country. Therefore, in determining the interim maintenance, there cannot be mathematical exactitude. The court has to take a general view. From the various judicial precedents, the under noted 11 factors can be culled out, which are to be taken into consideration while deciding an application under Section 24 of the Hindu Marriage Act. The same are:

- (1) Status of the parties.
- (2) Reasonable wants of the claimant.
- (3) The independent income and property of the claimant.
- (4) The number of persons, the non applicant has to maintain.
- (5) The amount should aid the applicant to live in a similar life style as he/she enjoyed in the matrimonial home.
- (6) Non-applicant's liabilities, if any.
- (7) Provisions for food, clothing, shelter, education, medical attendance and treatment etc. of the applicant.
- (8) Payment capacity of the non-applicant.
- (9) Some guess work is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.
- (10) The non-applicant to defray the cost of litigation.

- (11) The amount awarded under Section 125, Cr.P.C. is adjustable against the amount awarded under Section 24 of the Act.

19. Although there cannot be an exhaustive list of factors, which are to be considered in guessing the income of the spouses, but the order based on guess work cannot be arbitrary, whimsical or fanciful. I am of the view that arriving at the assessment with regard to the income of a spouse, when the sources of income are either not disclosed or not correctly disclosed, the Court can take into consideration amongst the following factors:

- (i) Life style of the spouse;
- (ii) The amount spent at the time of marriage and the manner in which marriage was performed;
- (iii) Destination of honeymoon;
- (iv) Ownership of motor vehicles;
- (v) Household facilities;
- (vi) Facility of driver, cook and other help;
- (vii) Credit cards;
- (viii) Bank account details;
- (ix) Club Membership;
- (x) Amount of Insurance Premium paid;
- (xi) Property or properties purchased;
- (xii) Rental income;
- (xiii) Amount of rent paid;
- (xiv) Amount spent on travel/ holiday;

- (xv) Locality of residence;
- (xvi) Number of mobile phones;
- (xvii) Qualification of spouse;
- (xviii) School(s) where the child or children are studying when parties were residing together;
- (xix) Amount spent on fees and other expenses incurred;
- (xx) Amount spend on extra-curricular activities of children when parties were residing together;
- (xxi) Capacity to repay loan.

20. These are some of the factors, which may be considered by any court in guesstimating or having a rough idea or to guess the income of a spouse. It has repeatedly been held by the Courts that one cannot ignore the fact that an Indian woman has been given an equal status under Articles 14 and 16 of the Constitution of India and she has a right to live in dignity and according to the status of her husband.

21. In the application filed by respondent, she has listed as many as eight properties, which either belong to the petitioner or the petitioner has a share in the same, all of which have been denied by the petitioner except for a property situated at M-225, Greater Kailash-II, New Delhi. The stand of the petitioner with regard to the purchase of the property situated at M-225, Greater Kailash-II, New Delhi, is that he has taken a loan from his father in the sum of Rs.45.00 lakhs. This explanation tendered by the petitioner is completely fanciful and not convincing.

22. Status and the lifestyle of the parties are an important consideration while deciding an application under Section 24 of the Hindu Marriage Act. It is not in dispute that the parties stayed at a house in a posh locality i.e Greater Kailash in Delhi. It is further not in dispute that the wedding reception of the parties was organized at Oberoi hotel and the parties went to Japan for their honeymoon. Though the counsel for the petitioner states that the respondent only joined the petitioner in Japan for a training program which the petitioner was undergoing.

23. In present case, the stand taken by the petitioner that he is earning a paltry sum of Rs. 16,400/- per month cannot be believed especially in view of the admissions of the petitioner that he has been provided with many facilities/luxuries by the petitioner's father on account of natural love and affection or in the course of business. The petitioner has also admitted to have travelled extensively in business class, enjoyed the facility of staying for considerably long periods in luxury hotels. Though the petitioner has stated that the facilities/luxuries were made available to the petitioner in course of business. The income tax returns which have been relied upon by the petitioner do not evoke any confidence especially in the light of the surrounding circumstances and the high status of living that was being enjoyed by the parties. It is highly improbable that an employee drawing salary of Rs.16,400/- per month would be entitled to a Hotel stay in a 5-Star for months at a time.

24. A Reference may be made to a Division Bench decision of the Bombay High Court in **Vinod Dulerai Mehta v. Kanak Vinod Mehta** reported at **AIR1990Bom120** wherein the court held that the income tax returns could not be taken as a sole basis to assess the income of a party. The relevant text is quoted herein under:

“The learned Judge therefore has come to the conclusion that the Income Tax returns filed by the husband are not conclusive of the true income of the husband and his income has to be assessed in the light of the said other consideration as well. We do not see anything wrong in this approach. As is common knowledge, Income Tax returns do not reflect the true position of the income of a party for several reasons, and cannot be taken as the sole guide for determining it in proceedings such as the present one”.

25. The judgment of the Division Bench is fully applicable to the facts of the present case. In today's time age tax avoidance and tax evasion is the norm. The income tax returns of a person must correspond to the status which is being enjoyed by a person and the luxury being enjoyed by him. In the instant case I find that the income tax returns do not reflect the clear picture of the income of the petitioner. The Income Tax Return shows that petitioner has suppressed the real income especially in view of the status and the lifestyle of the parties.

26. Additionally, it is trite law that every averment must be specifically admitted or denied or dealt with. A vague denial cannot absolve the non applicant from his or her liability to pay maintenance. In the instant case the averments of the respondent with regard to the status, lifestyle etc of the parties have to be given some

consideration as the parties have resided together for a considerable period of time and it is expected that during the time the parties were staying together the respondent would be aware of the income/status of the petitioner and would have enjoyed the fruits of the same. I find force in the submission of the counsel for the respondent that taking into account the lifestyle enjoyed by the parties after marriage, the husband staying in three/five star hotels in Mumbai, frequent air travels in business class it is clear that the parties were leading a luxurious life. There appears to be some concealment on part of the petitioner.

27. As held by the Supreme Court of India in the case of **Jasbir Kaur (Smt.)** (supra), Courts have also recognized the fact that spouses in the proceedings for maintenance do not truthfully disclose their true income and therefore some guess work on the part of the Court is permissible. Further the Supreme Court has also observed that *"considering the diverse claims made by the parties one inflating the income and the other suppressing an element of conjecture and guess work does enter for arriving at the income of the husband. It cannot be done by any mathematical precision"*.

28. It has been held in the case of **Neelam Malhotra v. Rajinder Malhotra and Ors.** reported at AIR 1994 Delhi 234 that the income from family business may be taken into account while deciding an application for interim maintenance. Relevant portion reads as under:

“However, the controversial issue is whether the moveable and Immovable assets belonging to the other defendants could also be taken into consideration for determining the earning capacity and social status of the husband particularly when it is alleged that all the assets acquired by the defendants, including defendant NO.1, are out of the joint family business being run under the name and style of M/s-Laxmi Traders. It is urged by Ms. Geeta Mittal, learned counsel for the plaintiff that coupled with the fact that defendant No. 1 is admittedly having a joint kitchen with other members of the family, the statement of his account in the books of account of the said firm leaves little room for doubt that the business of the said concern is being carried on by the brother of defendant No. 1 for the benefit of the entire family, including defendant No. 1 and, Therefore, the income of the said firm should be taken into account not only to determine the social status of defendant No.1 but also for fixing the quantum of interim maintenance”.

29. I have also carefully examined the Order passed by learned trial court. It is settled law that the High Court will be slow in interfering in the proceedings under Article 227 of the Constitution of India unless there is grave miscarriage of justice and only in appropriate cases to keep the subordinate courts within their bound of their authority and not for correcting their errors. It is not permissible to a High Court on a petition filed under Article 227 of the Constitution of India to review or reweigh the evidence.

30. Reliance is also placed on **Sandana Lodh v. National Insurance Co. Ltd.** reported at (2003)3 SCC 528 and more particularly at para 7 which reads as under:

“7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see

whether an inferior court or tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an appellate court or the tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior court or tribunal purports to have passed the order or to correct errors of law in the decision.”

31. Further, reliance is placed on **India Pipe Fitting Co. v. Fakruddin M.A. Baker and Anr.**, reported in AIR 1978 SC 45 and particularly at para 5 which reads as under:

“5. The limitation of the High Court while exercising power under Article 227 of the Constitution is well settled. Power under Article 227 is one of judicial superintendence and cannot be exercised to upset conclusions of facts however erroneous those may be. It is well-settled and perhaps too late in the day to refer to the decision of the Constitution Bench of this Court in Waryam Singh v. Amarnath¹ where the principles have been clearly laid down as follows:

“This power of superintendence conferred by Article 227 is, as pointed out by Harries, C.J., in Dalmia Jain Airways Ltd. v. Sukumar Mukherjee² to be exercised most sparingly and only in appropriate cases in order to keep the Subordinate Courts within the bounds of their authority and not for correcting mere errors.”

32. In the case of **Classic Equipments (P) Ltd v. Johnson Enterprises & ors.** reported in 2010(2) RAJ 406(Del) and more particularly at para 19 which read as under:

“19. It is no longer res intergra that the powers of the High Court: under Article 226 and 227 of the Constitution of India, are very wide , however, the same are to be exercised not as a Court of Appeal , and the High Court should be slow to interfere unless there is grave miscarriage of justice”.

33. In view of the facts of this case and settled position of law, I am of the opinion that the trial court has considered and duly weighed all material placed before it. I find no merit in the plea of the petitioner that the trial court has erroneously included the income and assets of the petitioner’s father and the business in his own income and

assets. The plea of the petitioner that he is earning a paltry sum of R. 16,400/- per month as director of a company appears to be highly improbable in view of the status and the luxurious lifestyle that the petitioner and respondent seemed to have enjoyed after their marriage. I find no force in the submission of the counsel for the petitioner that the expenses on boarding lodging and travelling were incurred by the company. In today's highly competitive age it cannot be reasonably expected that a company will be incurring expenditure worth Lakhs per month for a director who is only earning a sum of Rs. 16,400. Further, there appears to be force in the submission of the counsel for the respondent that trial court has rightly observed that it cannot be believed that a person earning Rs. 16,400 will purchase a house in a posh locality with a loan of Rs. 45 Lac. Additionally there appears to be a considerable rise in the salary of the petitioner post the decree of divorce. All the above factors if looked at in totality would show that the petitioner has not disclosed his true income and the assessment arrived at by the trial court is fair and just, and requires no interference. Accordingly, I find that the petitioner has been suppressing his true income only with the intent to deny the legitimate maintenance due to the respondent and the minor child. It has been held by the courts that the family business or family income may be taken into consideration having regard to the facts of the case while deciding the status of the parties and ultimately while deciding the application for maintenance. Hence, the trial court has rightly lifted

the corporate veil and has rightly assessed the income of the petitioner.

34. In view of the facts on the instant case and settled position of law I find that there is no infirmity with the order of the trial court awarding Rs. 50,000/-, per month, as maintenance to the respondent (wife) and the minor daughter.

G.S. SISTANI, J.

MAY 30, 2011
msr//