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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 3594/2011

MANAV CHOPRA

..... Petitioner

Through: Mr.Azhar Qayum, Advocate

versus

SHALINI

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

ORDER

01.11.2011

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1. The learned counsel for the petitioner has assailed the order dated 04.07.2011 passed by Sh. Kamlesh Kumar, Addl. Principal Judge Family Court, Rohini, fixing the interim maintenance @ Rs.8000/- to be paid by the petitioner to the respondent/wife. The said order has been assailed on the ground that the respondent was working before the marriage as well as after the marriage and is earning Rs.20,000/- per month, while as the petitioner was running a shop of Computer hardwares in Rohini which he had to close on account of the financial loss suffered by him.
2. The learned counsel for the petitioner further contends that he had to shift to Ludhiana as the respondent was creating tension in the family and consequently he had to take up a job there

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from which he is getting only a sum of Rs.5000/-.

3. Before dealing with these submissions of the learned counsel for the petitioner a brief background of the case would be relevant. The petitioner had got married according to the Hindu rites and rituals to the respondent on 18.02.2009. At the time of marriage the petitioner was stated to be doing business, however, the relations between the parties were strained on account of the allegations of demand of dowry by the respondent and cruelty being inflicted on her. This resulted in filing of various litigations including the present petition regarding maintenance u/s 125 Cr.P.C., by the respondent.
4. It is alleged that the petitioner is having a income of Rs.50,000/- per month from his business of Computer Hardwares which he is running under the name and style of M/s Magic Solutions in Sector-11, Rohini. It is also alleged that the mother of the petitioner is earning around Rs.40,000/- per month while as the petitioner is alleged to have created conditions on account of which the respondent had to abandon her matrimonial home.
4. The respondent had accordingly claimed a maintenance of Rs.25,000/- per month and a sum of Rs.5000/- as expenses for travelling from Calcutta to Delhi for attending hearing and Rs.2000/- for miscellaneous expenses and a sum of Rs.11,000/-

as litigation expenses apart from the other expenses. After the disputes have arisen the respondent/wife has shifted to Calcutta where her parents were living.

5. The petitioner filed reply to the application for grant of maintenance and took the plea that he is working in Ludhiana and earning Rs.5000/-. It was alleged by him in the reply that he had to migrate to Ludhiana on account of the strained relations created by the conduct of the respondent. The allegations of running a shop by the name and style of M/s Magic Solutions in Sector-11 is not denied although it is stated that shop is lying closed on account of heavy losses. It is also alleged that the respondent is earning as she is employed and, therefore she is not entitled to the maintenance for the reason that she has abandoned the matrimonial home at her own volition.
6. The learned family judge after examining the pleadings has passed a reasoned order fixing the maintenance @ Rs.8000/- to be paid by the present petitioner to the respondent by taking the income of the petitioner @Rs.25,000/- and not Rs.50,000/- as alleged by the respondent. The reason for passing this order of maintenance @ Rs.8000/- has been given by the learned family judge in detail and essentially he has observed that the

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petitioner still continue to show his telephone number which he is maintaining on the website under the name of M/s Magic Solutions. Although the allegation of shop being closed was accepted by the learned family judge, however, he observed that the shop must have been closed on account of the deliberate attempt on the part of the petitioner to avoid paying maintenance to the respondent. In view of the learned family judge it has not been brought on record by the present petitioner as to whether the shop was tenanted or self owned and therefore, the possibility of income being generated by letting out the shop to some private party and getting the rentals could not be ruled out. The learned family judge has also taken note of the fact that when the relationship between the parties is strained exaggerated claims on both sides are made. Taking note of these fact the learned family judge has observed that the petitioner has not been able to place any documentary evidence on record to show that the respondent is earning any money from any employment and accordingly choose to pass an order with regard to the grant of maintenance @ Rs.8000/- per month.

7. I do not find any infirmity or illegality in the reasoning given by the learned family judge even otherwise also this being an interim order cannot be made a subject matter of a petition u/s

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482 Cr.P.C. for the simple reason that there is no abuse of the processes of law which warrants any interference of this Court. The petitioner will get full opportunity to adduce evidence to show that he is earning only Rs.5,000/- per month or even that he is not earning at all. At the stage of grant of interim maintenance the Court has to take only a prima facie view of the matter which it has done. I do not find any merit in the contentions which have been ^{urged} ~~alleged~~ before this Court by the learned counsel for the petitioner and accordingly the petition is dismissed with liberty to raise all such pleas before the learned family judge during the course of trial.


V.K. SHALI, J

NOVEMBER 01, 2011

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