

\$~40

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

+ CRL.M.C. 3773/2011

% Judgment delivered on: 17th November, 2011

SUMER SINGH SALKAN Petitioner
Through : Ms. Malvika Rajkotia, Adv.
versus

REEMA SALKAN Respondent
Through : None.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

- | | |
|--|-----|
| 1. Whether the Reporters of local papers may be allowed to see the judgment? | No. |
| 2. To be referred to Reporter or not? | No. |
| 3. Whether the judgment should be reported in the Digest? | No. |

SURESH KAIT, J. (Oral)

CRL. M.A. 17985/2011 (Exemption)

Allowed subject to all just exceptions.

CRL. M.C. 3773/2011

1 Learned counsel for the petitioner submits that respondent has filed an petition under Section 125 Cr.P.C. for maintenance way back on 16.07.2003 and the petitioner was directed to pay a monthly maintenance of Rs.10,000/- to respondent.

2 It is further submitted that thereafter, the respondent has filed the evidence by way of affidavit but despite opportunity being granted she has not come forward for cross-examination and therefore, the petition under Section 125 Cr.PC. is liable to be dismissed.

3 The trial court vide order dated 19.10.2011 has observed as under:-
Reproduce order dated 19.10.2011.

MT. Case No. 108/11

19.10.2011

Present :- None for petitioner.

Respondent alongwith counsel Sh. K.C. Jain

Be awaited.

JUDGE-02/FAMILY COURT

ROHINI : DELHI : 19.10.2011

Called again

Present :- Petitioner in person.

Respondent alongwith counsel as before.

Petitioner submits that she does not wish to offer herself for cross examination as she wants to prefer an appeal against the order of this court dated 12.10.2011.

As the petitioner is not represented by any advocate, it is explained to her that her not-offering of herself for cross examination may not be in her interest. Petitioner submits that she knows the consequences.

Petitioner's statement to this effect is recorded separately.

This court can not wait for filing/outcome of appeal if any, filed by the petitioner, in view of the Hon'ble High Court's judgment dated 22.11.2010.

In view of the same, petitioner's cross examination is closed.

Put up for respondent's evidence on 20.10.2011, i.e. the date already fixed.

Ld. counsel for the respondent submits that he could not prepare the respondent's evidence, after cross examination of the petitioner. He further states that there are 15-16 cases between the parties. He is representing the respondent in those cases also and it is not humanly possible for him to prepare respondent's affidavit within a day. He requests for 2-3 days time.

JUDGE-02/FAMILY COURT

ROHINI : DELHI : 19.10.2011

Called again

At 2.15pm.

Present :-None for the petitioner.

Respondent in person.

It may be mentioned that the Hon'ble High court vide order dated 22.11.2010, directed this court to conduct the evidence of the parties on day to day basis without postponing or adjourning the matter for any reason whatsoever. The Hon'ble High Court had also observed that once the dates for evidence are fixed, the same shall be adhered to by both the sides. The delay in between had happened because of application filed by the parties. Details in this regard have already been recorded in the order sheet dated 12.10.2011.

In view of the Hon'ble High Court's directions, the respondent should have kept his evidence prepared. However, in the interest of justice, the respondent is given three days time. Respondent should file his evidence by way affidavit within three days with advance copy to the petitioner.

JUDGE-02/FAMILY COURT

ROHINI : DELHI : 19.10.2011

4 Thereafter, on 24.10.2011, the petitioner moved an application, which was listed on 29.10.2011.

5 Learned counsel for the petitioner submits that the learned trial

Judge be directed to decide the application of the petitioner first and then proceed further with the case.

6 In the circumstance, I direct the learned Judge to decide the application moved by the petitioner on the first available opportunity and then proceed further in the case as per provisions of law.

7 The CRL.M.C. 3773/2011 stands allowed and disposed of.
8 Dasti.

CRL. M.A. 17984/2011

In view of above order, this application is disposed of being infructuous.

SURESH KAIT,J

NOVEMBER 17, 2011

j