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

+ **CRL.M.C. 2974/2013**

MADHU SUDAN SONI

..... Petitioner

Through: Ms.Charu Sachdev, Adv.

versus

RENU & ORS.

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE VEENA BIRBAL

ORDER

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31.07.2013

CRL.M.A. 11278/2013 (exemption)

Allowed, subject to just exceptions.

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1. By way of this petition, challenge has been made to order dated 17.05.2013 passed by Ld. Judge, Family Courts, Saket, New Delhi, whereby interim maintenance of ₹7000/- per month has been awarded to respondent/wife.

2. Briefly, the facts of the case are as under:

The petitioner was married to respondent no.1 on 21.11.2009 at Delhi. A petition under Section 125 Cr.P.C. has been filed by respondent no.1/wife against petitioner/husband before the Family Courts, Saket, New Delhi. Along with said petition, an application has been moved for grant of interim maintenance till the decision of the main petition. The respondent no.1/wife

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has alleged in the said petition that she was married with petitioner on 21.11.2009 at Delhi and after marriage she was harassed, tortured for bringing insufficient dowry. After about 10 days of living at matrimonial home, the petitioner/husband brought her in a rented accommodation which was owned by one Mrs.Anju where both the parties were residing and there also the behaviour of the husband was not proper and she was made to do household work of Mrs.Anju. In the petition, she has made allegations of harassment to her by petitioner and his family members. The respondent no.1 had also made allegations that earlier she was working at Net Ambit, Sector-7, Noida where petitioner/husband came and abused her in a filthy language, as a result of which her services were terminated. It is stated that the petitioner is well qualified and working as Assistant Manager with AVIVA Life Insurance Corporation and getting a good salary and is also earning from tuitions and also owns immovable property and his income is more than ₹1 lakh per month. She has prayed for grant of ₹50,000/- per month as interim maintenance.

3. The petitioner/husband has opposed the petition of wife for grant of interim maintenance as well as regular maintenance by denying all the allegations made by respondent no.1/wife except the factum of marriage. The petitioner/husband has alleged that respondent/wife has stayed with him for 7 days and thereafter left the matrimonial home as she wanted to go back and join her job. The petitioner has alleged that respondent no.1/wife is well qualified and she is maintaining her parents and earning good amount, as such she is not entitled for maintenance.

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4. For the disposal of application for grant of interim maintenance, the parties were asked to file their respective income affidavits. After hearing the parties and perusing the affidavits filed by them, the Ld. Judge, Family Courts, observed that as per the affidavit of petitioner/husband his salary is ₹29,000/- per month, whereas as per the affidavit of respondent/wife she has left the job in 2010. She has worked up to December, 2010 and is dependent upon her parents and granted interim maintenance of ₹7000/- per month to wife. Aggrieved with the same present petition is filed.
5. Learned counsel appearing for petitioner/husband has submitted that the respondent no.1/wife is more qualified than the petitioner/husband. She has done MBA and that respondent no.1 is presently working, as such Ld. Judge, Family Courts ought not have granted interim maintenance to her.
6. Perusal of impugned order shows that as per the stand of the respondent no.1/wife, her services were terminated because her husband had gone to her office and abused her. She has stated on affidavit that her services were terminated in December, 2010. Though, the petitioner/husband has alleged that she is presently working, however, nothing has been placed on record by him to substantiate that presently she has got some source of income. The petitioner has made bald allegations without giving any details in this regard. Even if, respondent/wife is more qualified, as is submitted by the petitioner, the same does not mean that she is not entitled for maintenance, when no proof is furnished by petitioner of her being working anywhere. There is a salary certificate of petitioner/husband on record which shows that he is working with AVIVA Life Insurance, Gurgaon and his salary is ₹29,000/- per month. Considering
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the material on record the learned Judge, Family Courts has granted ₹7000/- per month maintenance to the wife.

7. As per the affidavit of petitioner/husband his father is retired from service. It is not his case that his father is not getting pension and is financially dependent upon him. Further, it has come in the affidavit that brother of the petitioner is also working.

8. Considering the totality of facts and circumstances, the impugned order granting interim maintenance of ₹7000/- per month to the respondent/wife is based on material on record. No illegality is seen in the impugned order. In any case, if the respondent no.1 is working, as per the stand of the petitioner, he is free to establish the same when evidence of the parties will be recorded for the disposal of main petition under Section 125 Cr.P.C.

The petition stands dismissed.

CRL.M.A. 11279/2013 (stay)

In view of above order, this application stands dismissed as infructuous.



VEENA BIRBAL, J

JULY 31, 2013

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