IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No.8618 of 2014 (O&M)
Date of Decision.10.12.2015

Raman Bawa ....Petitioner

Vs.

Amit Jain ....Respondent

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Sumeet Mahajan, Senior Advocate with
Mr. Hitesh Ghai, Advocate
for the respondent.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

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K. KANNAN J.

1. The civil revision is at the instance of the wife against interim maintenance of ₹40,000/- per month granted to her in matrimonial proceedings initiated by the husband. The wife complains that the amount assessed by the Court below is not adequate and not keeping with the status of the parties.

2. Learned senior counsel appearing on behalf of the revision petitioner would contend that the husband is associated with a company which is a closely held by the family members that manufactures various consumer products like staplers, staple removers, paper punches, scissors, carbon paper etc. The company is called Kangaroo group which supports a huge industrial infrastructure. The market presence that the company obtains for the last five decades making Kangaroo and Munix

the most trusted brands and known throughout India and the company makes profit in several crores of rupees of which the husband has a sizeable share. The learned Senior Counsel would point out the statements showing sales, net profit before tax and net profit after tax for various assessments from the years 2011 to 2014. It would seem that Kangaro Industries Ltd. had a net profit after tax at ₹12.01 crores for the year 2012, ₹10.51 crores for the year 2013 and ₹21.70 crores for the year ending with 31.03.2014. The share holding of the husband is reported to be 50% for the years 2011 and 2012 and in view of the pendency of the proceedings and in anticipation of the claim by the wife against her maintenance, the husband has actually off-loaded all the shares and has made it appear as though he is not any longer having any stakes in the company. The reserves in surplus of the company in the year 2014 is reported to be ₹47.03 crores. In the sister company Munix India Private Limited, the net profit after tax in the year 2011 was ₹9.37 crores which gradually has increased to ₹16.52 crores for the year ending with 31.03.2014. The percentage of shares held by the husband for the year 2011 was 40% and for the year 2012 was 40% but they have been shown as nil in the year 2013 and 2014.

Kangaroo Industries Ltd:

Financial year ending	**Net profit after tax**
31.03.2013	₹12.01 crores
31.03.2013	₹10.51 crores
31.03.2014	₹21.70 crores

Munix India Pvt. Ltd.

Financial year ending	**Net profit after tax**
31.03.2011	₹9.37 crores

31.03.2012	₹4.79 crores
31.03.2013	₹11.79 crores
31.03.2014	₹16.52 crores

3. The contention of the wife is that the husband has deliberately made transfers of his shares to make it appear as though he is not possessed of sufficient means to maintain her. Learned Senior Counsel appearing on behalf of the respondent-husband would contend that he has no holding in the company right now and many of the cars which the wife has shown as belonging to the husband are not really the assets of the husband. On the other hand, they are the properties of the companies. It was also stated that the petitioner is actually residing in the very same house and she is being well taken care of and the amount of ₹40,000/- already assessed is adequate. It is also the contention that the relief of maintenance cannot be provided to her without minding the actual ground taken by the husband in the petition for divorce. It is contended that the wife had been guilty of matrimonial wrong in having relationship with a person other than the husband and that therefore, she was not even justified in claiming any maintenance. According to learned Senior Counsel appearing on behalf of the respondent, the wife's conduct must be taken note of before any maintenance is granted. The Senior Counsel would also state that the maintenance that can be awarded during the pendency of proceedings ought to be realistic and cannot be a windfall or a lottery for the wife to take.

4. The issue of adjudging the conduct of the wife at the present stage will be too risky and will not be even appropriate. It may not be possible for me to assess whether there is any truth in the

contentions raised by the husband at the present stage and it could constitute a serious prejudice to the wife. According to him, the interim maintenance ought to have a bearing to the reasonable wants of the wife and if she is already living in the house, her own needs not be more than ₹40,000/- as assessed already by the Court.

5. It is not denied that every known brand of high priced cars in the world which are popular also in India, are owned by the companies and they are actually put to use by the persons who are running the company. The wife has filed the photographs of cars of various brands such as Mercedes, SUV model of Mercedes, two models of BMW, one Audi, one Toyota and several other cars. Learned Senior Counsel would state that there are about 17 luxury sedans which the respondent actually drives and owns and parks in the compound. The learned Senior Counsel would also file photographs to show a large expanse of land in which bungalows are situate to show the relative opulent status of the husband. The Senior Counsel would point out to me that in spite of the opulence, the wife has been literally incarcerated in the house and fed through a window as though she were a prisoner securing morsels of food in abject poverty.

6. The terms used under the Hindu Marriage Act under section 24 are that the assessment made will have a due consideration of the relative status of parties; reasonable wants of the individual, paying capacity of the spouse and extent of resources held by the petitioner herself who claims maintenance. There is no doubt that the respondent holds a very high income and social status in the society. For obvious reasons, the respondent has denuded himself of all the shares and there

is no pretension to say even at the time of arguments by the learned Senior Counsel that there was any compelling reasons for such transfer of shares just about the time when the proceedings were initiated before the Court. The respondent surely has control over the records and it should be possible even for the respondent to file the documents showing that various cars which are parked within the compound do not belong to him or they do not stand in his name but they stand in the name of the company. I will draw adverse inference against the respondent for not filing any documents for proof of ownership of the cars. Even if the cars belong to the companies they would still show the financial robustness of the companies over which the respondent has a sure control. I would also find that the conduct of the respondent in transferring the shares when there was a prospect of claim by the wife as motivated and I will take no notice of the fact that he does not hold any shares in the company at least on paper. I will take that to be merely for the purpose of the case and will make assessment that will have a due bearing to the claims made by the wife.

7. This Court ***Sita Devi Vs. Vijay B. Verma 2014(1) RCR (Civil) 1018*** had an occasion to consider a similar situation of a claim for maintenance by a wife against a husband who was not merely an advocate and legal practitioner in Ludhiana but also was an owner of a Four Star hotel. The parleys for settlement between the parties themselves revealed that the husband was very opulent and this Court had observed that the courtesy and the comfort which an owner of a hotel would extend to his guests for consideration ought to be at least the type of comfort which a husband shall extend to the wife. In that

case, this Court had granted a maintenance of ₹1.50 lacs. In this case, we are in a far different situation of a husband being very wealthy and at the helm of affairs of a very prosperous company. The husband who is in charge of the company that has turn over of more than ₹50 crores and the companies which are earning profit of more than ₹10 crores as the tabulation given above shows ought to take responsibility for keeping the wife in relatively the same status as she was at the time of her entry into the matrimonial home. The expressions 'reasonable wants of spouse' must be a flexible concept. What is reasonable for a person living on roads cannot be treated as reasonable for a person who is living in a palatial mansion and a spouse of a leading business magnate. Maintenance surely cannot be taken to be a share of the profits in the business but there is no reason to treat the woman with indignity as a prisoner in the house. The wife of an opulent man ought to have a share in such opulence and maintenance need not be only to keep the heart and soul together for a simple meal. The learned Senior counsel appearing on behalf of the respondent would state that after the marriage on 18.05.2011, his own income status has fallen over a period of time. The income assessed in the year 2011-12 is stated to be ₹41.30 lacs, in the year 2012-13 it is stated to be ₹30.85 lacs and in the year 2013-14 it is stated to be ₹11.17 lacs. Learned senior counsel would give a calculation memo to suggest that his average monthly income will be about ₹1.56 lacs and the maintenance provided at ₹40,000/- would be appropriate and just. This is the amount taking at its lowest value. A person who keeps his status reasonably high must ensure that his own wife is seen in the society as a spouse of a very opulent person and she is bound to be maintained at the same level. Her own status and her living cannot be seen in the eyes of public as having fallen miserably low after the stand-off between the parties. In her times of despondency and separation, the only comfort which can keep her own morale from floundering would be to not living in a state of luxury but in a status which would be commensurate at least in a small measure to the status of the husband. I have no doubt in my mind that the wife shall be given at least ₹2 lacs as interim maintenance per month. I have not worked out any particular percentage of income of the respondent or the resources of the company in which he is at the helm but I like to believe that reasonable wants of a woman who has to maintain a status befitting her husband's own, must be surely provided for. There are new approaches from the Courts in assessing compensation in motor accident claims where the Courts have assessed the status of the wife to be at par with the husband and while determining the contribution of a wife makes to the family, it is taken as not less than 50% of what the husband was earning (please see ***Arun Kumar Aggarwal and others vs. National Insurance Company Ltd and others (2010) 9 SCC 218)***. If we must take the profits which the company was making and the percentage of shares of holding by the husband, the income was still in few crores of rupees and the documents filed by the husband that he was earning very less cannot be taken at his face value. Payment of ₹2 lacs by way of maintenance could hardly affect the husband in any sense and it will be a flea bite for the husband to part with. The assessment made already stands modified and the wife shall be entitled to ₹2 lacs per month as claimed by her.

8. The civil revision is allowed on the above terms that will take effect from the date of filing of the petition before the Court below. Arrears of maintenance so reckoned shall be paid within four weeks from the date of receipt of copy of the order. No further proceedings before the trial Court shall be taken up unless the award of maintenance granted by this Court is fully complied with. The wife is at liberty to move for rejection of the petition or stay of the proceedings if the amount is not paid and the Court shall pass appropriate orders thereon.

9. The revision petition is allowed on the above terms with costs assessed at ₹50,000/- against the respondent.

(K. KANNAN)
JUDGE

December 10, 2015
Pankaj*