

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

RESERVED ON : 25th MARCH, 2015

DECIDED ON : 27th APRIL, 2015

+ CRL.REV.P. 136/2014 & CRL.M.A.Nos.3385/14 & 3386/14

VIRENDER TANWAR

..... Petitioner

Through : Ms.Asha Jain Madan, Advocate.

versus

ANJALI

..... Respondent

**Through : Mr.Sunil Singh, Advocate with
Mr.Ajit Kumar & Ms.Nikita
Sharma, Advocates.**

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. Present petition has been preferred by the petitioner to challenge the correctness and legality of a judgment dated 19.12.2013 of learned Judge Family Courts, Dwarka, whereby he was directed to pay a sum of ₹ 7,000/- per month to the respondent – wife as maintenance. The petition is contested by the respondent.

2. I have heard the learned counsel for the parties and have examined the file. Learned counsel for the petitioner urged that the

income of the petitioner from his salary is ₹ 7,722/- per month. The impugned order directing him to pay ₹ 7,000/- per month to the respondent cannot be sustained. Merely because of certain payments received occasionally for working 'overtime', it cannot be inferred that his salary has gone to ₹ 14,470/- per month. Learned counsel for the respondent urges that the impugned order is based upon fair appreciation of the evidence and needs no intervention.

3. Admitted position is that earlier interim maintenance @ ₹3,500/- per month was a consent order on the statement of the petitioner before the Court. In the petition under Section 125 Cr.P.C., the respondent claimed that the petitioner's total income from various sources to be to the tune of ₹ 1,30,000/- per month including ₹ 25,000/- per month as salary being working as 'Security Guard' in US Embassy. She, however, did not produce any document to substantiate her assertion. Contrary to that, the petitioner claimed that he was getting salary ₹ 7,722/- per month vide salary certificate Ex.RW-1/1. Both the parties examined themselves in evidence besides the petitioner producing RW-2 (Debashish Tewary), Senior Manager Finance. The Trial Court came to the conclusion that the

total income of the petitioner was ₹ 21,000/- per month and it was not reflected by him deliberately.

4. Salary certificate dated 16.10.2013 (Ex.RW-1/1) issued to the petitioner reflects the total payment as salary ₹ 7,722/- per month; basic pay of the petitioner to be ₹ 3,822/-; HRA ₹ 1,950/- and other payments ₹1,950/-. It is unclear if petitioner has been employed by RW-2 and is being paid only minimum wages notified by Delhi Government. In that eventuality, the petitioner must have got only 'lump-sum' amount. It appears that the petitioner has concealed his real / exact income. The salary slip (annexure P5) reflects his total salary in April, 2013 as ₹ 7,640/-. However, 'other payment slip' of April, 2013 shows separate payment of ₹ 5,340/- to him. Similarly, in May, 2013, the salary slip shows the payment of ₹ 8,510/- besides 'other payment' of ₹ 5,960/-. Similar is the position regarding pay slips of July, August and November, 2013 where the total payments made to the petitioner come to about ₹13,000/- per month. In the cross-examination, the petitioner has admitted that his salary shown in his account No.912010022362871 of Axis Bank, Rajauri Garden is ₹ 14,470/- per month. He further admitted that amount of ₹ 8,000/- was being deposited in his account monthly. The petitioner

did not reveal as to from where he was getting the amount ₹8,000/- every month. The petitioner attempted to show payment of ₹4,200/- per month as rent to one Madhu Bala and produced various photocopies of the rent receipts. An individual allegedly having a meager salary of ₹7,722/- is not expected to spare ₹ 4,200/- as rent besides making payment of agreed interim maintenance payment @ ₹ 3,500/- per month to the respondent. Apparently, real / exact income generated from all sources by the petitioner has not been reflected / disclosed and he has not come to the Court with clean hands. The Trial Court has given detailed reasons for assessing the income of the petitioner to be ₹ 21,000/- per month and the findings cannot be termed perverse or illegal.

5. In the light of above discussion, the revision petition lacks merit and is dismissed. Pending applications also stand disposed of. Trial Court record be sent back forthwith with the copy of the order.

(S.P.GARG)
JUDGE

APRIL 27, 2015 / tr