

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

Date of Decision: February 09, 2015

+ CRL.M.C.No.488/2015

RAJIV CHAUDHARY

..... Petitioner

Through: Mr. Kamal Katyan, Advocate

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Ms. Nishi Jain, Additional Public
Prosecutor for respondent-State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

% **(ORAL)**

Crl.M.A.No.1922/2015 (Exemption)

Allowed subject to all just exceptions.

CRL.M.C.No.468/2015 & Crl.M.A.No.1921/2015

In proceedings under *Protection of Women from Domestic Violence Act, 2005*, trial court by its order of 2nd June, 2014 has directed petitioner-husband to pay maintenance @ ₹12,000/- p.m. from the date of filing of the petition. Vide impugned order of 28th November, 2014 Appellate Court has affirmed the aforesaid trial court's order. Both the courts below have assessed petitioner's income to be between ₹35,000 and ₹40,000/- per month.

At the hearing, it was submitted by learned counsel for petitioner

that petitioner is a driver by profession and is earning ₹3,000-4,000/- per month and is unable to pay the maintenance awarded. It is submitted that respondent is a qualified lady and is deliberately sitting idle and prior to filing of this case, she was working. Attention of this Court was drawn to bank account statement of respondent and to the three debit cards (*Annexure P-8 colly*) and it was submitted that courts below are not justified in granting the maintenance amount to respondent.

Upon hearing and on perusal of the impugned order and material on record, I find that bank account statement of respondent is for the period prior to filing of the application in question, and it does not disclose any steady deposits in the account. As regards debit cards are concerned, there is no reference in the impugned orders and even in this petition, it is not stated that petitioner had urged before the Appellate Court that the debit cards are of respondent. A bare perusal of copy of debit cards (*Annexure P-8 colly*) reveals that on the face of it, these debit cards do not appear to be of respondent. In any case, this is a question which is left open to be considered by the trial court in the pending proceedings.

In the impugned order, it has been rightly observed that no one would give Hyundai Accent car to the bridegroom, who is a driver by profession and is earning ₹3,000-4000/- per month. The factum of petitioner owning Hyundai Accent car and of maintaining it shows that petitioner is concealing his true income. Bank Account Statement of petitioner reveals that there are deposits of various sizeable amounts in his account, for which no explanation is forthcoming.

In the considered opinion of this Court, there is no illegality or infirmity in the impugned order.

The petition and application are dismissed without commenting upon merits of this case, lest it may prejudice petitioner at trial.

(SUNIL GAUR)
JUDGE

FEBRUARY 09, 2015
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