

I-R-200

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

Date of Decision: September 02, 2015

+ CRL.M.C. 4341/2013 & Crl.M.A.No. 16959/2013

SANDEEP JAIN

..... Petitioner

Through: Mr. Vishal Raj & Mr. Sehej Pal,
Advocates

versus

PRIYA JAIN & ANR.

.....Respondents

Through: Mr. Deepak Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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In proceedings under Section 125 of Cr.P.C., petitioner-husband has been directed to pay interim maintenance @ ₹40,000/- p.m. to respondents, who are his wife and minor child.

Trial court in its order of 1st February, 2013 notes that petitioner herein is a man of means and has two factories which manufacture jean pants in Raghubarpura, Delhi and trial court has concluded that petitioner earns more than ₹2,00,000/- p.m. and so, he has been directed to pay interim maintenance as noted hereinabove.

The Revisional Court vide impugned order of 12th September, 2013 has sustained the aforesaid trial court's order while observing that petitioner in the matrimonial advertisement had categorically stated that

he was earning ₹2,00,000/- p.m. and that his *Income Tax Return* of the year 2008-09 does not disclose the true income of petitioner.

At the hearing, learned counsel for petitioner submits that in the matrimonial advertisement there was a typographical error and the *Income Tax Return* of petitioner discloses his true income and the bank statements reflected the sale proceeds of the properties and that petitioner is working with *M/S Swami Garments* as a Sales Man and is earning ₹6,500/- p.m. as salary and is thus, unable to pay interim maintenance awarded. Lastly, it is submitted on behalf of petitioner that out of the sale proceeds of immovable properties which petitioner's family had, a sum of ₹8,50,000/- has been already given to respondent-complainant towards arrears of maintenance etc. and petitioner is unable to pay the maintenance awarded by the courts below. Attention of this Court is drawn to the affidavit of petitioner filed in this petition to submit that petitioner has no means to pay the interim maintenance, as awarded.

Learned counsel for respondent-complainant supports the impugned order and submits that there is no illegality or infirmity in the impugned orders and that petitioner is concealing his true income and so, this petition deserves to be dismissed.

Upon hearing and on perusal of the impugned orders, I find that balance sheet of petitioner as on 31st March, 2006 reveals that petitioner has been paying LIC policy premium of ₹70,000/- odd. If petitioner was earning just ₹6,500 p.m. or ₹15,000/- p.m. as per his *Income Tax Return*, then how can petitioner pay LIC premium of ₹70,000/- odd ?

In the facts and circumstances of this case, it appears that petitioner is concealing his true income. In any case, income of petitioner cannot be

taken to be ₹2,00,000/- p.m. because bank balance includes the sale proceeds of the property sold by petitioner. This is so evident from the copy of the two Sale Deeds on trial court record.

Be that as it may. These are the aspects which are required to be considered at trial. At this stage, it would be suffice to direct petitioner to pay total interim maintenance @ ₹20,000/- p.m. to respondents from the date of application till further order by the trial court.

With aforesaid directions, this petition and application are disposed of.

(SUNIL GAUR)
JUDGE

September 02, 2015

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