$~15

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

\+ MAT.APP.(F.C.) 175/2016

MOHANISH CHETAN CHOUDHARI ..... Appellant
Represented by: Mr.Aman Bhalla, Advocate with Ms.Wamika Trehan, Advocate

versus

SURABHI GULERIA ..... Respondent
Represented by: Mr.Utkarsh, Advocate with Ms.Anshu Priyanka, Advocate
Respondent in person

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE YOGESH KHANNA

<u>O R D E R</u>
% **25.11.2016**

<u>CM No.43480/2016</u>

Allowed subject to just exceptions.

<u>Mat.A.(F.C.) No.175/2016</u>

1. The impugned order dated August 29, 2016 disposes of application filed by the respondent under Section 24 of the Hindu Marriage Act, 1955, opining that in the view of the learned Judge, appellant's monthly income would be ₹55,000/- (Rupees Fifty Five Thousand only). The respondent has a daughter to support. Half monthly income of the appellant has been awarded as maintenance to the respondent; and needless to state it includes the maintenance of the child as well. The amount comes to ₹27,500/- (Rupees Twenty Seven Thousand Five Hundred only).

2. Reasoning in the impugned order is that the appellant is hiding his income. He claims to be an employee in a company, controlling shares whereof are with his parents. He holds some shares. He claims that working in said company, his monthly salary is ₹25,000/- (Rupees Twenty Five Thousand only). He claims annual expenditure in sum of ₹3,74,800/- (Rupees Three Lakhs Seventy Four Thousand Eight Hundred only). The learned Judge, Family Court, has opined that earning ₹,300,000/- (Rupees Three Lakhs only) per annum, the appellant had to explain how his annual expenditure was ₹3,74,800/-(Rupees Three Lakhs Seventy Four Thousand Eight Hundred only); which explanation appellant could not render.

3. Correcting the reasoning of the learned Judge Family Court to the extent, though noted in the impugned order, what has been overlooked is the admission by the appellant that as the sole proprietor of M/s Cosmogony Electronics he earns around ₹80,000/- (Rupees Eighty Thousand only) per annum, we agree with the conclusion reached by the learned Judge Family Court, for the reason it does not stand to logic and reason that a person earning ₹3,80,000/- (Rupees Three Lakhs Eight Thousand only) per annum would spend ₹3,74,800/- (Rupees Three Lakhs Seventy Four Thousand Eight Hundred only) per annum on himself. The appellant admittedly owns a motor vehicle make Skoda Rapid, for which the appellant pays EMIs. A person earning ₹25,000/- (Rupees Twenty Five Thousand only) per month as salary plus about ₹7000/- (Rupees Seven Thousand only) per month from his own business, would not buy a luxury car of the kind. We note that Skoda Rapid is a car in the luxury segment. The appellant resides with his parents. Apart from he being, as claimed by him an employee in a company owned by his parents in which he has a few shares, the impugned order also

records that the appellant is a proprietor of M/s Cosmogony Electronics. He is also a Director of a company M/s Inbenta Electro Systems (Nasik) Pvt. Ltd.

4. The matter could be looked at differently. The respondent and the child born to the couple would be entitled to the same lifestyle as would the appellant be. If the appellant has the comfort of a Skoda Rapid, so would the respondent and the child born to the couple. If the appellant spends ₹3,74,800/- (Rupees Three Lakhs Seventy Four Thousand Eight Hundred only) per annum on himself, the wife and the daughter would be entitled to jointly spend the same.

5. We agree with the learned Trial Judge that in the instant case the appellant has so manipulated his accounts that truth has to be found, not in the income tax returns or the accounts of the appellant, but with reference to the life style of the appellant.

6. Finding no merit in the appeal we dismiss the same in limine.

7. No costs.

<u>CM No.43479/2016</u>

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

YOGESH KHANNA, J.

NOVEMBER 25, 2016
skb