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

DECIDED ON : 19th MAY, 2017

+ **CRL.M.C.1149/2016, CRL.M.A.Nos.4943/2016 & 6535/2016**

MANIK CHOPRA

..... Petitioner

Through : Mr.K.K.Manan, Sr.Advocate with
Ms.Shweta Sain, Mr.Ankush Narang
& Mr.A.Bhagat, Advocates.

versus

PRIYANKA CHOPRA

..... Respondent

Through : Mr.Sandeep Saini, Advocate.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. The instant petition under Section 482 Cr.P.C. has been preferred by the petitioner to challenge the legality and correctness of an order dated 29.01.2016 of learned Addl. Sessions Judge in Crl.A.No. 6/2015 whereby order dated 05.11.2014 of learned Metropolitan Magistrate granting interim maintenance to the respondent @ ₹60,000/- per month was upheld. Petition is contested by the respondent.

2. I have heard the learned counsel for the parties and have examined the file. Relationship between the parties is not in dispute. No material has emerged to find out if despite having professional qualification, the respondent is presently earning any income. It has come on record that earlier the respondent was employed with Little Millennium School situated near her matrimonial home. After separation, she has started living with her parents at Noida. Due to long distance between her residence and place of

employment, she has given up the said job. Apparently, the respondent has no independent source of income at present.

3. The Trial Court assessed the income of the petitioner in between ₹1.5 lac to ₹2 lacs per month. Record reveals that no cogent documents have been placed by the respondent to show if the petitioner has any specific income from any particular source of income in his individual capacity. The Trial Court has taken into consideration various transactions in his bank account to infer that the income disclosed by the petitioner i.e. ₹12,000/- per month due to his employment with Sony Peripherals is unbelievable and the petitioner has suppressed the real and correct income being earned by him. It is further inferred that the petitioner is working with his father in firm 'Allianz Estate' and 'Allianz Interior Decorators' and has substantial income which has not been disclosed. The petitioner also did not explain receipt of income from interest from mutual funds in his account.

4. After examining various documents on record, undoubtedly, it can be gathered that the petitioner has not divulged his actual / correct income. But to presume that the income of the petitioner is in between ₹1.5 lac to ₹2 lacs and the respondent is entitled to get maintenance @ ₹60,000/- per month without any cogent supporting documents is unreasonable and can't be justified at this stage. At this juncture, for determining interim maintenance the Court is required to take a prima facie view and is not expected to conduct roving inquiry on merits and to draw inferences on the basis of certain documents on record without affording an opportunity to the respective parties to explain them during trial.

5. During the course of arguments, learned Senior Counsel for the petitioner, on instructions, volunteered to pay ₹20,000/- per month to the

respondent, without prejudice, as an interim maintenance. The respondent was not agreeable to it. A proposal was made to pay ₹30,000/- per month to the respondent till the disposal of the petition before the Trial Court without prejudice. The respondent again did not agree to it.

6. It is relevant to note that the respondent had filed a petition under Section 125 Cr.P.C. before the Courts at Ghaziabad where interim maintenance @ ₹10,000/- per month was awarded by an order dated 30.11.2015. The respondent after grant of interim maintenance in the present proceedings opted to withdraw the said petition under Section 125 Cr.P.C.

7. Considering all the facts and circumstances of the case, in my considered view, interim maintenance @ ₹30,000/- per month would be reasonable. The parties will have opportunities to produce their respective evidence during trial to establish their respective pleas about the income etc.

8. Resultantly, the present petition filed by the petitioner is allowed to the extent that the interim maintenance @ ₹60,000/- per month shall be @ ₹30,000/- per month. Other terms and conditions of the order are left undisturbed.

9. Observations in the order shall have no impact on merits of the case.

10. Pending applications also stand disposed of.

(S.P.GARG)
JUDGE

MAY 19, 2017 / tr