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IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : 16th MAY, 2017

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CRL.M.C. 2051/2016 & CRL.M.A.No.8685/2016

PRADEEP KUMAR

..... Petitioner

Through : Mr.Anunaya Mehta, Advocate.
versus

SAROJ BALA

..... Respondent

Through : Mr.Vijay Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. Aggrieved by an order dated 09.12.2015 of learned Metropolitan Magistrate granting interim maintenance to the respondent and her children to the tune of ₹30,000/- per month with effect from 05.08.2015 and endorsed a judgment dated 11.03.2016 of learned Addl. Sessions Judge in Criminal Appeal No. 3/2016, the instant petition has been preferred. It 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. The petitioner is admittedly working as TTE in Railways. The respondent is not generating any income whatsoever. She is purportedly suffering from an eye problem.

3. Dispute between the parties primarily is over quantum of maintenance granted to the respondent i.e. ₹30,000/- per month. The Trial Court has assessed the monthly income of the petitioner as ₹60,000/-. The petitioner has placed on record his payslip for the month of December, 2014 reflecting his gross income to be ₹53,855/-; after deductions the net salary comes to ₹44,443/-. Another payslip of September, 2015 reveals his gross salary ₹41,104/-; after deductions the net salary comes to ₹24,650/-. It is informed by the petitioner that enhanced salary for the month of December, 2014 was due to travelling allowance earned by him during that period and it cannot be taken as regular income. Apparently, the petitioner has not disclosed his exact actual income. Only two salary slips one of December, 2014 and the other of September, 2015 have been placed on record. Latest salary certificates showing the exact income of the petitioner specifically after implementation of 7th Pay Commission has not been placed on record. The petitioner has not divulged as to what is his exact income at present after implementation of the 7th Pay Commission and what arrears, if any, have been received by him. In December, 2014 despite having gross income of ₹53,855/- contribution towards VPF (Voluntary Provident Fund) was to the tune of ₹8,000/-. However, the petitioner increased it to ₹15,000/- in September, 2015 though his income from salary had allegedly declined. Enhanced contribution to VPF cannot be taken into consideration to impact his real income. The petitioner has also not disclosed income from interest on the amount deposited in his VPF / PPF Account. Admittedly, the petitioner owns three immovable properties in his name i.e. 107 sq.yds. plot at Bhiwandi, 150 sq.yds. plot at Gurgaon and 120 sq.yds. plot at Kakroi, Sonipat. The petitioner has not placed on record the documents to show as

to when and from which source of income, these plots / immovable property were acquired.

4. The respondent is living with her parents since long. She is to maintain her two school-going children aged around 12 and 10 years. The petitioner, during arguments, informed that he had no difficulty if ₹20,000/- granted as interim maintenance to both the children is not disturbed / interfered. Maintenance @ ₹10,000/- to the respondent, under these circumstances, cannot be termed unreasonable or excessive. She is not only to maintain the children in her custody but has also to enjoy the life as per the status of the respondent.

5. Considering the facts and circumstances of the case, I find no sufficient reasons to interfere in the findings of the two Courts below awarding interim maintenance of ₹30,000/- in all to the respondent and her children.

6. Apart from this, the impugned order is only an interlocutory one and the petitioner will have an opportunity to produce evidence during trial to prove his exact income. The payment to be made to the respondent till the disposal of the main petition is adjustable being without prejudice.

7. The petition lacks in merits and is dismissed. Pending application also stands disposed of.

(S.P.GARG)
JUDGE

MAY 16, 2017 / tr