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

+ **CONT.CAS(C) 1039/2016**

RIDHIMA JUNEJA

..... Petitioner

Through Ms.Geeta Luthra, Sr.Advocate with
Mr.Ujjwal Jain, Advocate with
petitioner in person.

versus

DEVEN JUNEJA AND ORS

..... Respondents

Through Ms.Perna Mehta, Advocate with
respondent in person.

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Date of Decision: 8th March, 2017

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present contempt petition has been filed alleging wilful disobedience of the order dated 19th April, 2016, whereby the Supreme Court had directed the respondent-husband to pay Rs.1 lakh as interim maintenance to the petitioner with effect from 01st May, 2016. The respondent-husband was further directed to clear all the arrears of interim maintenance within a period of three months.

2. Ms. Geeta Luthra, learned senior counsel for the petitioner states that the respondent-husband has to pay, till date, the outstanding amount of Rs.67 lakhs in accordance with the direction given by the Apex Court in its

order dated 19th April, 2016. According to her, the petitioner has not only wilfully disobeyed a binding judgment of the Apex Court, but his conduct is also contumacious. She refers to certain photographs of the respondent-husband to show that he has been leading a luxurious lifestyle.

3. On the other hand, Ms. Prerna Mehta, learned counsel for the respondent-husband states that the respondent-husband does not have the financial capacity to comply with the order dated 19th April, 2016 passed by the Supreme Court. She points out that the respondent-husband is a salaried employee with Juneja Trading (a company owned by his closed relative) at the salary of Rs.20,000/- per month. Consequently, according to her, the respondent-husband at present can pay only Rs.20,000/- per month as maintenance amount to the petitioner. She submits that the Supreme Court has only determined the *ad interim* maintenance amount and the final determination has been left to the Trial Court.

4. Ms. Mehta also refers to the judgment of the Apex Court in ***Niaz Mohammad & Ors. Vs. State of Haryana & Ors.; 1994 (6) SCC 332*** to submit that no person can be punished for contempt of Court for disobedience except when the disobedience is established beyond reasonable doubt and the standard of proof is similar, if not the same as in criminal proceedings. She repeatedly emphasises that the respondent-husband has till date paid Rs.43 lakhs.

5. Having heard the learned counsel for the parties, this Court is of the view that the ground of financial incapacity was also raised and considered by the Supreme Court. In fact, despite the said defence being raised, the Supreme Court directed payment of maintenance at the rate of Rs.1 lakh per month with effect from 01st May, 2016 as well as payment of outstanding

arrears within a period of three months.

6. Consequently, the defence raised by learned counsel for the respondent-husband is no longer res integra. The relevant portion of the Supreme Court order is reproduced hereinbelow:-

“.....Learned senior counsel also submitted that the financial position of the appellant and his father has become quite adverse because of business losses etc., and the appellant is not in a position to pay the aforesaid amount as maintenance because his income is admissibly low. It is also argued that in the High Court when the matter was being argued the counsel for the respondent had herself submitted that the respondent was agreeable to receive the ad-interim maintenance of Rs. 50,000/- per month in the interregnum and the matter be sent back to the Trial Court for fixing the interim maintenance on the basis of evidence. On this ground it was not proper on the part of the High Court to fix interim maintenance at Rs. 1.5 lakhs.

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Without commenting upon the arguments and counter arguments of the parties we feel that till the time issue of interim maintenance is decided by the Trial Court, the appellant is to pay a sum of Rs. 1 lakh per month as interim maintenance to the respondent no.1/wife. We may observe that while fixing this amount we have applied our mind tentatively to certain facts on record.

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..... To put it in other words, the appellant would be entitled to adjust only a sum of Rs.20 lakhs towards the arrears of maintenance and not the component of the interest. It is directed that w.e.f. 1st May, 2016, the appellant shall start paying a sum of Rs.1 lakh as interim maintenance. Insofar as, the arrears of interim maintenance are concerned, after adjusting the amount already paid, the same shall be cleared within a period of 03 months from the date of this order.

(emphasis supplied)

7. From the aforesaid, it is apparent that the Apex Court has already rejected the arguments being advanced now by the learned counsel for the

respondent-husband.

8. This Court is further of the view that the respondent-husband has till date not been declared an insolvent and in fact, it has not been brought to the notice of this Court that any proceeding has been filed by the respondent-husband seeking such a declaration.

9. Moreover, from the respondent-husband's appearance, it does not seem to this Court that he is financially not capable to pay the maintenance amount. The photographs placed on record indicate that the respondent-husband is maintaining a lavish lifestyle.

10. From the aforesaid facts, it is apparent that respondent-husband has committed a wilful and deliberate breach of the order of the Apex Court dated 19th April, 2016. In the opinion of this Court, the conduct of the respondent-husband interferes with the due course of justice and he is guilty of contempt of Court. In fact, it is necessary to do so, to uphold the majesty of law and dignity of courts as well as sanctity of Court proceedings.

11. Keeping in view the contumacious conduct of the respondent-husband, this Court sentences the respondent, who is present in Court, to two months simple imprisonment along with a fine of Rs.2,000/-. He is directed to be taken into custody forthwith.

12. Registry is directed to prepare the necessary warrants forthwith.

13. With the aforesaid observations and directions, present contempt petition is disposed of.

14. Order dasti under signature of Court Master.

MANMOHAN, J

MARCH 08, 2017/KA