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

% *Date of Judgment: 29th October, 2018*

+ **MAT.APP(F.C.) 43/2018 & CM Nos. 6701/2018, 42182-183/2018**

BHUVNESHWAR SACHDEVA Appellant

Through: Mr. Yadunandan Bansal and
Mr. Amit Kumar, Advs. with the
appellant in person

versus

KAVITA SACHDEVA Respondent

Through: Mr. S.K. Sharma and Mr. Vishal
Vashist, Advs.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MS. JUSTICE JYOTI SINGH

G.S. SISTANI, J. (ORAL)

1. Challenge in this appeal is to the order dated 06.12.2017 by which an application filed by the respondent/wife under Section 24 of the Hindu Marriage Act, 1955 seeking maintenance has been allowed. The Family Court has fixed the maintenance @15,000/- per month.
2. Learned counsel for the appellant submits that the Family Court has failed to take into consideration that the respondent/wife has been working and her income has not been considered while fixing the maintenance. It is also contended before us that the Family Court has passed the order fixing the maintenance without taking note of the fact that the appellant is barely earning Rs.10,000/- per month and thus not in a position to comply with the order so passed. The Family Court has laid extra emphasis on the fact that he is paying car loan installments

of Rs.11,858/- per month, which amount is infact being paid by his parents and not by the appellant/husband herein.

3. Learned counsel also submits that although the Family Court has observed that no document has been placed on record by the appellant in support of his submission that the respondent is working, the appellant has infact placed copies obtained from the office of the ESIC and has placed a screen shot of the hotmail account of the father of the respondent which shows that the respondent is working in a firm, namely, *MCB Electro Control (Sigma Brand)* and earning Rs.15,000/- per month. Learned counsel further submits that on account of the respondent having concealed vital information pertaining to her employment, on this ground alone the application filed under Section 24 of the Hindu Marriage Act should have been dismissed.
4. *Per contra*, counsel for the respondent on instructions from the respondent who is present in Court submits that the respondent has neither worked before marriage, during her marriage and post her separation. She submits that *firstly*; the screen shot which has been placed on record does not pertain to her account and *secondly*; the said document has not been proved by the appellant herein.
5. Learned counsel for the respondent further submits that the Family Court has correctly observed that the appellant has not disclosed his correct and true income. It is contended that in the first affidavit filed, the appellant had stated that his income as Rs.1,20,000/- per annum, being proprietor of M/s B.S. Enterprises. It was also deposed that he owns a *Swift* car which he had purchased by taking a loan and pays

installments of Rs.11,858/- per month. Whereas in the second affidavit filed, the appellant has shown his income @1,50,880/- per annum. Learned counsel for the respondent submits that a proprietor of a firm is not expected to be earning less than the minimum wages and thus, the appellant had filed a false affidavit and has concealed his true and correct income. Counsel further contends that the appellant is a man of means. Besides being a proprietor of M/s B.S. Enterprises, he also owns immovable property and receives rent which has not been disclosed by him. He also relies upon all the copies of balance-sheets placed on record which show that there were stocks of more than Rs.20 lakhs in the financial years 2014 to 2015 and 2015 to 2016. Besides copy of the reply has been filed and is being relied upon to show that there were various transactions in the bank account of the appellant which would belie the submission made in Court pertaining to his income.

6. Counsel for the appellant in rejoinder submits that a subsequent affidavit was filed on account of change of circumstances and no concealment has been made.
7. We have heard the learned counsel for the parties.
8. The Hon'ble Supreme Court in the case of ***Jasbir Kaur Sehgal (Smt.) v. District Judge, Dehradun and Ors.***, reported at (1997) 7 SCC 7 has recognized the fact that spouses in the proceedings for maintenance do not truthfully disclose their true income and therefore some guess work on the part of the Court is permissible. Further the Supreme Court has also observed that “*considering the diverse claims made by*

the parties one inflating the income and the other suppressing an element of conjecture and guess work does enter for arriving at the income of the husband. It cannot be done by any mathematical precision”.

9. The Courts have repeatedly held that in family matters, there is a tendency of spouses not to disclose their correct and true income. The present case is no different. A reading of the order of the Family Court shows that the appellant claims to be earning Rs.1,20,000/- and Rs.1,50,880/- per annum. It is not expected that a person who is carrying on a business, would be earning Rs.10,000/- per month which is even below the minimum wages for a skilled worker. It is also not believable that the appellant who is maintaining a new car and has raised a loan is taking the help of his parents to make the payment of instalments. As far as the plea of the appellant with regard to the respondent being employed is concerned, no evidence of any nature has been placed on record which would support the plea of the appellant. On the contrary, the respondent who is present in Court has made a statement that she has never been employed pre, post separation and during her marriage, which we have no reasons to disbelieve. In our view, the Family Court has correctly assessed the income of the petitioner as Rs.40,000/- per month and directed him to pay maintenance @15,000/- per month. We find no infirmity in the order passed by the Family Court. The appeal alongwith all the pending applications stand dismissed.
10. At this stage, learned counsel for the appellant submits that he will file an application seeking modifications/review of the order of the Family

Court on the basis of the subsequent documents which he has received. In case, such an application is filed, the Family Court would consider the matter on merit.

G.S.SISTANI, J.

JYOTI SINGH, J.

OCTOBER 29, 2018

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