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

+ **CRL.M.C. 1484/2016 & CrI.M.A. 6347/2016, CrI.M.A. 3054/2017**

MANISH GROVER

..... Petitioner

Through: Mr. Prabhjit Jauhar & Ms. Rosemary,
Advs.

versus

VASI GROVER

..... Respondent

Through: Ms. Nidhi Mohan Parashar, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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05.09.2018

On the petition (CC no. 145/4/13) of the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 taken out against the petitioner (husband), dealing with an application under Section 23 of the said law, the Metropolitan Magistrate, by order dated 14.05.2015, for interim maintenance to be paid by the petitioner/husband unto the respondent/wife for herself and the two children of the parties, they living under the care and custody of the respondent/wife, in the composite sum of Rs. 40,000/- per month payable with effect from the date of filing of the petition i.e. 25.10.2013, the said amount inclusive of Rs.20,000/- for maintenance of the wife and Rs. 10,000/- each for the children.

The abovesaid order was challenged by both parties by criminal appeal nos. 17/2015 and 24/2015 before the court of Sessions which were decided by common judgment dated 22.12.2015. The first appellate court, upon reaching a tentative conclusion that the husband's income was

Rs.80,000/- per month, to which exception is taken by the petitioner/husband, it enhanced the interim maintenance allowance to Rs.48,000/- per month, it representing Rs.16,000/- each towards the wife and the two daughters.

Aggrieved by the afore-mentioned dispensation by the appellate court, present petition under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C) was filed by the petitioner/husband, his submission being that his income and that of wife have not been correctly construed. The petition has been resisted by the respondent/wife who contends, *inter alia*, that the income tax returns (ITRs) relied upon by the petitioner showing income accruing to her in the past was actually not her own income, it only representing the income generated in her name from the family business controlled by the petitioner/husband.

Be that as it may, on 07.07.2017, this court noted that it had come on record that the respondent/wife has taken up employment from July, 2016 and now earns Rs.22,000/- per month. The submission of the petitioner/husband that he was paying Rs.32,000/- per month – now explained to be the maintenance allowance for the two children – was noted in the said proceedings of 07.07.2017.

At the hearing, it was submitted by the counsel for the respondent/wife that she has since moved an application before the Metropolitan Magistrate where the main petition is pending for enhanced maintenance allowance to be fixed on the ground of increase in the expenditure. The counsel for the petitioner wants to clarify that the said application for modification has been filed after the proceedings of

07.07.2017 had been recorded. He also submits that the salary earned by the respondent/wife is more than admitted sum of Rs.22,000/- per month, the petitioner reserving the right to seek discovery of the relevant facts before the trial court.

After some hearing, the learned counsel on both sides, on instructions, submit that they agree that the interim order of maintenance as passed by the first appellate court be made absolute for the pendency of the petition before the trial court subject to its partial modification with effect from July, 2016 on account of the respondent/wife having admittedly joined gainful employment, her right to interim maintenance during the pendency of the petition not being pressed from the period July, 2016 onwards till a decision is taken on the application for enhancement of maintenance allowance. The learned counsel for the petitioner, it may be recorded for clarity, undertakes to pay the interim maintenance allowance to the wife and the children at the rates fixed by the first appellate court with effect from the date of filing of the main petition before the Metropolitan Magistrate till June, 2016 and also to pay Rs.32,000/- per month as interim maintenance for the children from July 2016 onwards till a decision is taken on the application for enhanced maintenance allowance. For removal of doubts, it is also made clear that the amount of Rs.5,000/- per month fixed for arranging rented accommodation shall be payable over and above the above-noted maintenance allowance. Ordered accordingly.

The petition and the applications filed therewith are disposed of.

R.K.GAUBA, J.

SEPTEMBER 05, 2018/uj

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