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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Judgement: 19th November, 2018

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MAT.APP.(F.C.) 92/2018

SHARANJIT KAUR KOHLI

..... Appellant

Through

Mr. Shubham Bhalla and Ms. Roopam
Rai, Advocates

versus

RAMANDEEP SINGH KOHLI

..... Respondent

Through

Ms. Chandrani Prasad, Advocate

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 20.02.2018 passed by the learned Family Court whereby an application filed by the appellant/wife under Section 24 of the Hindu Marriage Act (hereinafter referred to as 'HMA') was allowed. The Family Court has awarded maintenance in the sum of Rs.20,000/- per month alongwith litigation expenses of Rs. 11,000/- with effect from the date she vacates the rented accommodation occupied by the parties before their separation.
2. The necessary facts to be noticed for the disposal of the present appeal are that the marriage between the parties was solemnized on 28.03.2011 at Delhi as per Sikh rites. No children were born out of the said wedlock. Parties have been residing separately since 22.10.2016. On 14.12.2016, the respondent/husband had filed a divorce petition under Section 13(1)(ia) (ib) of HMA before the Family Court.

3. Learned counsel for the appellant/wife has strongly urged before us that the respondent/husband is an accomplished Chef. He is working for a high-end restaurant, which is evident upon the snap-shots of various sites available on the internet which would support her submission. The learned counsel for the appellant/wife has drawn the attention of the Court to various photographs to show that the respondent/husband has been catering to the rich and famous and thus, he must be earning a huge package and not as assessed by the learned Family Court. Learned counsel for the appellant further submits that the Family Court has overlooked the fact that the respondent has suppressed and concealed his true income.
4. *Per contra*, learned counsel for the respondent/husband has opposed this appeal and submits that the respondent/husband is a free-lancer Chef & Consultant and has no fixed source of income. Additionally, the counsel contends that merely because the respondent is a Chef and in case there are photographs with celebrities does not mean that the respondent/husband is earning a huge package as alleged by the appellant/wife. The learned counsel further submits that the appellant is a trained beautician and has worked with VLCC and was an employee with the Shahnaz Husain Group and in fact she has concealed her true income being a trained beautician and the substantial amount earned by her.
5. We have heard the learned counsels for the parties and carefully examined the record. To decide the case on hand, it would be necessary to reproduce para 6.2 of the impugned order which reads as under:

“6.2 Petitioner is paying rent at the rate of Rs. 24,000/- per month for a premises, which is not used by any of the parties. He, however, is incurring the aforesaid expenses. Estimating his personal expenses to be about Rs. 30,000/- to Rs. 40,000/- per month, this Court is of the opinion that he has disposable income of about Rs. 60,000/- per month. If petitioner pays an amount of Rs. 20,000/- per month to the respondent, his disposable income would be left with about Rs. 40,000/-. Estimating that the respondent has the capacity to earn Rs. 20,000/- per month, this Court is, therefore, of the opinion that an amount of Rs. 20,000/- per month as maintenance pendente lite would bring her income at par with that of petitioner/husband. Thus, the ends of justice would be served.”

6. It is often seen that the spouses do not reflect their true and correct income making the task of the Family Court difficult to assess the correct income of the spouses. The Family Court has to rely upon guess work to assess the income of the spouses. In the case of ***Jasbir Kaur Sehgal (Smt.) v. District Judge, Dehradun and Ors.***, reported at (1997) 7 SCC 7, the Hon'ble Supreme Court 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”*.
7. The present case is a perfect example of the parties not reflecting the true and correct income by the spouses before the Family Court. During the course of hearing, we had asked the learned counsel for the appellant/wife as to where the parties were last residing. We are

informed that the parties last resided in a Flat at Dwarka at a rent of Rs.24,000/- per month. No details and supporting documents have been placed on record by the wife/appellant to establish her claim that the husband/respondent is earning more than one lakh a month except the photographs to show that he interacts with the rich and famous.

8. In this background, we find there is no force in the argument made by the counsel for the appellant/wife for the reason that if the earning of the husband was more than Rs.1.0 lakh per month, he would be living in a Flat on a higher rate of rent and not at a rent of Rs.24,000/- per month. Additionally, we find that the Family Court has carefully analysed the probable income of the respondent/husband and rightly assessed the same to be Rs.1.0 lakh per month. We have also taken note that there is no document to show that the appellant/wife is a trained beautician, although the appellant worked with high-profile Group of beauticians.
9. Having regard to the complete facts of the present case and taking into consideration the judgment of the Supreme Court of India in the case of ***Jasbir Kaur Sehgal (Smt.)***(*supra*), we find no infirmity in the order passed by the learned Family Court. The present appeal is devoid of any merit. The appeal is accordingly dismissed.

G.S.SISTANI, J.

JYOTI SINGH, J.

NOVEMBER 19, 2018//pst