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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 01.06.2018

**MAT.APP.(F.C.) 138/2018, CM APPL.24647/2018 (Exemption),
CM APPL.24648/2018 (Stay) & CM APPL.24649/2018 (Condonation of
Delay)**

PK

..... Appellant

versus

P

..... Respondent

Advocates who appeared in this case:

For the Appellant : Mr. Vijay Dalal and Mr. Dushyant Kumar, Advocates
For the Respondent : None

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE VINOD GOEL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The present appeal belatedly impugns the order dated 07.02.2018,

passed by the learned Judge, Family Courts, Dwarka, New Delhi in HMA Case No.1550/2017, titled as '*P K vs. P*', whereby the application of the respondent-wife under Sections 24 and 26 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the said Act') was partly allowed, directing the appellant-husband to pay a sum of Rs.10,000/- per month, as interim maintenance to Master A, the minor son of the parties, who is in the custody of the respondent-wife, till the disposal of the appellant-husband's petition seeking dissolution of marriage on the grounds of cruelty.

2. Learned counsel appearing on behalf of the appellant-husband would urge that the impugned order is erroneous, inasmuch as, it failed to apportion the expenditure incurred towards maintenance of the minor son Master A. The above submission is predicated on the circumstance that both the parties are gainfully employed.

3. Learned counsel appearing on behalf of the appellant has placed reliance on a decision of the Hon'ble Supreme Court of India in **Padmja Sharma vs. Ratan Lal Sharma**, reported as **AIR (2000) 4 SCC 266**, in support of his contentions that in the circumstances the parties are bound to contribute for the maintenance of their child in the proportion of their

respective income.

4. In our considered view, the submission made on behalf of the appellant is specious, inasmuch as, it is an admitted position that the respondent-wife, who is employed by the Municipal Corporation of Delhi on a contract basis, earns a fixed salary of Rs.25,980/- per month, whereas the appellant-husband who is employed with the Delhi Police gets the net salary of Rs.39,509/- per month. This admitted position clearly reflects that although the respondent-wife is gainfully employed, the fixed salary that she gets on contract basis is less in comparison to that earned by the appellant-husband, who is employed against a permanent post in Delhi Police. Even otherwise, the minor son Master A, who is in the care and custody of the respondent-wife has been granted interim maintenance only at the rate of Rs.10,000/- per month, which to say the least is the bare minimum requirement to keep the body and soul together.

5. In view of the foregoing discussion, the present appeal is devoid of any merit and the same is accordingly dismissed. The pending applications also stand disposed of.

6. There shall be, however, no order as to costs.

**SIDDHARTH MRIDUL
(JUDGE)**

**VINOD GOEL
(JUDGE)**

JUNE 01, 2018
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