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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 28th August, 2018

+ CRL.M.C. 2085/2016

SALONI MAHAJAN

..... Petitioner

Through: Mr. Ajay Digpaaul, Ms.
Madhuri Dhingra & Mr.
Shoumya Karmakar, Advs.

versus

RAHUL VIG & ORS

..... Respondents

Through: Mr. Osama Suhail & Mr. Mohit
Thareja, Advs.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner was concededly married to the first respondent on 31.07.2010 and out of their cohabitation, a male child took birth on 30.11.2011. The marriage of the parties ran into rough weather sometime around 28.08.2011 when the first respondent left for Denmark statedly in connection with his gainful employment there. The petitioner felt constrained to file a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (no.C-616/1/12), *inter alia*, seeking maintenance allowance to be awarded.

2. The first respondent, while resisting the said petition, filed an affidavit disclosing his income and assets, copy whereof has been

submitted with the petition. The Metropolitan Magistrate, by her order dated 22.12.2014, awarded an amount of Rs.8,000/- in favour of the petitioner making it effective from the date of filing of the petition till final decision. The said order was taken in appeal (Crl. A. 3/2/16) by the petitioner (wife) in the court of Sessions. The appeal was allowed by order dated 03.03.2016 enhancing the compensation to Rs.12,000/- p.m, though making it effective from the date of disposal of the application by the trial court till final decision in the said case.

3. The said orders have been challenged by the petition at hand under Section 482 Cr. PC, the contention of the petitioner being that the maintenance allowance fixed is grossly inadequate. It is pointed out that the first appellate court was misled to proceed on the assumption that the petitioner was living in house no.A-300, Vikas Puri, Delhi, which is owned by the father of the first respondent. It is noted that by order dated 13.05.2014 of the Additional District Judge in a suit (civil suit no.22/14) instituted by the father of the first respondent, an *ad interim* injunction was issued on his application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC) restraining the petitioner from forcibly entering or interfering into the peaceful possession of the said party in respect of property no.A-300, Vikas Puri, Delhi. Concededly, the said interim injunction has been operating against the petitioner. Thus, it is wrong to assume that she would have the benefit of a residential accommodation at the cost or arrangement of the first respondent / husband.

4. It is noted from the affidavit of the first respondent that he had admitted that he was working for gain in Denmark, his salary being in the sum of ~28,000/- Krone p.m, it concededly being equivalent to Rs.55,500/- p.m.

5. Though it does appear that the expenses while working for gain in Denmark would also be high, the maintenance allowance at meager Rs.12,000/- p.m. particularly when there is no arrangement for residential accommodation of the petitioner / wife and the child of the parties is too inadequate. Given the level of earnings of the respondent / husband, in the opinion of this court, interim maintenance allowance in the sum of Rs.15,000/- p.m. in favour of the petitioner / wife and Rs.10,000/- p.m. in favour of the minor child seems to be adequate.

6. For above reasons, the petition is allowed. The interim maintenance allowance is revised to Rs. 15,000/- in favour of the petitioner /wife and Rs. 10,000/- in favour of the minor child of the parties. The amount shall be payable with effect from the filing of the petition before the Magistrate till decision on the main petition, this being subject to the final adjudication.

7. The petition is disposed of accordingly.

Dasti.

R.K.GAUBA, J.

AUGUST 28, 2018/yg