

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

% Decided on: April 12 , 2018

+ **CRL.A.1168/2016**

MANOJ KUMAR Appellant
Represented by: Mr.Vijay Shankar, Advocate with
Appellant in person

versus

SUSHMA Respondent
Represented by: Mr.Arvind Nagar, Advocate

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

Crl.M.A.No.19109/2016

For the reasons stated in the application, delay of 28 days in filing the appeal is condoned.

Application is disposed of.

Crl.A.No.1168/2016

1. Aggrieved by the order dated 30th July, 2016 dismissing the application of the petitioner under Section 340 Cr.P.C. by the learned Family Court, Dwarka, the appellant prefers the present appeal.
2. Case of the appellant before the Court was that though the respondent resigned from her job at BlazeFlash Courier on 30th June, 2011, on the date when she filed an application before the learned Judge Family Court i.e. on 2nd May, 2011 under Section 24 of the Hindu Marriage Act, she falsely claimed that she was unemployed. Case of the respondent before the learned Judge Family Court was that she had left her job on 28th April, 2011

and was unemployed at the time of filing of the application for interim maintenance as well as at the time of grant of interim maintenance i.e. 12th July, 2013.

3. The only document to support his claim relied upon by the appellant is the form of the respondent under the Employees' Pension Scheme, 1995 wherein the date of leaving service, if any, by the respondent has been mentioned as 30th June, 2011. In the application, the respondent stated that the job she was doing had to be discontinued on account of minor son being born and his care and welfare was the utmost priority of the respondent. In support of the contention, the respondent has placed on record the resignation letter dated 28th April, 2011. From the evidence on record, it is apparent that though the date of leaving of service of the respondent has been mentioned as 30th June, 2011 but she had resigned from the same on 28th April, 2011. Thus, the learned Trial Court rightly rejected the application of the appellant under Section 340 Cr.P.C. for the reason if the acceptance of resignation from the job has been shown as 30th June, 2011 that would not make the claim of the respondent false for the reason she had left the job on 28th April, 2011 and only thereafter filed the application for maintenance on 2nd May, 2011 and was granted interim maintenance only on 12th July, 2013 when admittedly she was not in employment. This Court finds no ground to interfere in the impugned order.

4. Appeal is dismissed.

(MUKTA GUPTA)
JUDGE

APRIL 12, 2018

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