

\$~22

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

+ CRL.M.C. 3370/2017 & CrI. M.A. no. 13754/2017 (stay)

SHANKAR BHOMIK

..... Petitioner

Through

Mr. Jatin Nagar, Adv. with petitioner in person

versus

SMT ANITA BHOMIK

..... Respondent

Through

Ms. Aasha Paul and Mr. Arunmozhi,
Advs. with respondent in person

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

%

26.02.2018

1. Respondent (wife) filed a petition under Section 125 Cr.P.C. praying therein that petitioner be directed to pay maintenance @ ₹25,000/- per month to her. Litigation expenses of ₹75,000/- were also claimed. Vide impugned order the family court has awarded interim maintenance of ₹4,000/- to the respondent no.2.
2. Relationship of husband and wife is not in dispute. Children born from the wedlock of the petitioner and respondent are major. Son is aged about 21 years; whereas daughters are aged about 26 years and 28 years respectively. Trial court has noted that each of them were earning ₹10,000/- per month. Respondent is earning ₹9,000/- per month. This fact is not in dispute.
3. Learned counsel for the petitioner submits that respondent is living in the

house of petitioner, whereas petitioner is living in a rented accommodation. Petitioner is working as a labourer. No documentary material was available before the trial court to assess the income of petitioner. Trial court did not take into account the fact that respondent was earning same amount as that of the petitioner. Accordingly, trial court has erred in awarding ad-interim maintenance @ ₹4,000/- per month to the respondent.

Keeping in view of the facts and circumstances of this case as noted by the Family Court, I am of the opinion that the Family Court has erred in awarding the interim maintenance to respondent (wife). Respondent and petitioner are earning about same amount. Petitioner is living on rent; whereas respondent is living in the house owned by the petitioner.

For the foregoing reasons, impugned order is set aside. Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

FEBRUARY 26, 2018/r.bararia