

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P.378/2020, CRL. M.A. 16657/2020 and
CRL.M.A. 16658/2020 (Stay)

Date of Decision: 02.12.2020

IN THE MATTER OF:

SAAJAN BAJAJ Petitioner
Through: Mr. Honey Khanna and Mr. Randeep
Sachdeva, Advocates

Versus

ESHA SACHDEVA Respondent
Through: None

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

MANOJ KUMAR OHRI, J. (ORAL)

1. The present petition has been filed under Sections 397/401 Cr.P.C. read with Section 482 Cr.P.C. impugning the judgment dated 21.05.2020 passed by the learned District & Sessions Judge (West), Tis Hazari Courts, Delhi in Crl. Appeal No. 100/2019 whereby the learned District & Sessions Judge has upheld the order dated 01.02.2019 passed by the learned M.M. awarding interim maintenance @ Rs.10,000/- per month to the respondent/wife towards the residence from the date of filing of the application till disposal.

2. Learned counsel for the petitioner submits that the respondent is employed in TCS and according to her income affidavit, she is earning about Rs.22,000/- per month. He has contended that even after recording a finding that the respondent was not entitled to any interim maintenance, the Trial Court still granted maintenance @ Rs.10,000/- per month towards her residence from the date of the filing of the application. He further contends that the respondent is also engaged in some business as there were multiple cash entries in her bank account statements.

3. It was next contended by learned counsel for the petitioner that without prejudice to his rights and contentions, even if the maintenance were to be granted, the same ought to have been granted from the date of the passing of the order.

4. I have heard learned counsel for the petitioner and also gone through the case records.

5. The marriage between the parties was solemnised on 12.03.2016 as per Sikh rites and ceremonies and there is no child from the said wedlock. Within few weeks of the marriage, the respondent, on account of matrimonial discord, left the matrimonial home. Though thereafter, the parties reached a settlement, but subsequently, the respondent preferred a complaint under Section 12(1) of the Protection of Women from Domestic Violence Act, 2005 (for the short, the DV Act).

6. The Trial Court vide order dated 01.02.2019, after considering the income affidavits as well as after hearing learned counsels for the parties, observed that while the petitioner was earning Rs.61,824/- per month, on the other hand, the respondent was earning only Rs.22,000/- per month. The Trial Court came to the conclusion that although, no case for grant of interim

maintenance was made out, but the petitioner was duty bound to provide shelter to his wife and accordingly, granted interim maintenance @ Rs.10,000/- towards her residence from the date of the filing of the application.

7. The petitioner challenged the aforesaid order before the Court of Sessions. By way of a detailed order, it was observed that although both the parties were working in the same organization i.e., Tata Consultancy Services however, the respondent was drawing a salary of Rs.22,000/- per month whereas the petitioner was drawing a salary of Rs.61,824/- per month. It was also observed that there was a sea of a difference in the educational qualification of the petitioner and the respondent. The respondent is B.A. pass with degree in Office Management whereas the petitioner is a Post Graduate having done M.C.A. The Sessions Court had also gone through the various bank statements of the respondent which showed entries only on intermittent basis, for which, the respondent had clarified that the aforesaid amounts were credited by her parents towards her financial assistance.

8. The Sessions Court also noted that the respondent was working full time in TCS and as such, did not find favour with the arguments of learned counsel for the petitioner that the respondent was having a side business. The Sessions Court upheld the Trial Court's order granting interim maintenance @ Rs.10,000/- towards the residence of the respondent.

9. Section 19 of the DV Act provides that the Magistrate, while disposing of an application under sub-section (1) of Section 12, on being satisfied that domestic violence has taken place, in terms of sub-section (1) (f), may direct the non-applicant to secure same level of alternate

accommodation for the applicant as enjoyed by her in the shared household or in the alternative, to pay the rent for the same. In the present case, the amount of maintenance has been granted to the respondent towards her residence.

10. So far as the other contention qua grant of maintenance from the date of filing of the application is concerned, the Supreme Court recently in Rajnesh v. Neha and Another reported as **2020 SCC OnLine SC 903** held as follows:-

“79. It has therefore become necessary to issue directions to bring about uniformity and consistency in the Orders passed by all Courts, by directing that maintenance be awarded from the date on which the application was made before the concerned Court. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.”

11. Accordingly, this Court finds no illegality, infirmity or perversity in the order passed by the Sessions Court. Resultantly, the revision petition is dismissed alongwith the pending applications.

12. A copy of this order be communicated to the concerned Trial Court electronically.

**MANOJ KUMAR OHRI, J
JUDGE**

DECEMBER 02, 2020
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