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

+ CRL.M.C. 6042/2019, CRL.M.A. 11371/2020 & CRL.M.A. 11372/2020

SANJAY KUMAR

..... Applicant

Through: Petitioner in person.

Versus

PRITI PODDAR

.....Respondent

Through: Respondent in person.

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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24.08.2020

(hearing through Video Conferencing)

CRL.M.A. 11372/2020 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.A. 11371/2020 in CRL.M.C. 6042/2019

The matter is indicated to be listed for the date 22.10.2020 having not been taken up on 04.05.2020 in view of the present pandemic and is now taken up on CRL.M.A. 11371/2020 filed on behalf of the petitioner seeking an early hearing in the matter.

The petitioner is present in person and submits that he is a law intern and that he does not need any legal assistance at present. The respondent no.2 as per the record is indicated to be an advocate. In view thereof, submissions have been heard on behalf of either side.

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The petitioner vide the present petition seeks the quashing of the order of the First Appellate Court dated 24.10.2019 of the learned ASJ-04, Shahadara in CRL.A.33/2019, whereby, the prayer made on behalf of the present petitioner as the appellant therein seeking the reduction of the amount of interim maintenance that had been granted to the respondent by the Trial Court vide order dated 02.06.2015 to the tune of Rs.12,000/- per month in favour of the respondent and the minor child till the disposal of the petition bearing No.V-71/2014, was declined and vide which order dated 24.10.2019 of the learned ASJ-04, Shahadara, however, the enhancement of interim maintenance from Rs.12,000/- to Rs.15,000/- as granted by the learned Trial Court vide order dated 25.06.2019 was set aside.

It has been submitted by the petitioner that the matter is still pending at the stage of examination of the respondent in her petition, as a consequence of which there has been a continuous amount of maintenance that the petitioner has had to pay and the said amount keeps increasing. It has further been submitted by the petitioner that his earnings are only Rs.26,000/- per month and that he has his parents, his wife, child and himself and that thus, the amount needs to be equitably distributed to which the respondent has submitted that the earnings of the petitioner is Rs.46,000/- per month and not Rs.26,000/- per month.

The avowed contention of the petitioner is that the respondent is fully employed and had been fully employed previously as she is a practising advocate and that she had earnings from the postal department also and that she is capable of maintaining herself.

The prayers made by the petitioner are vehemently opposed by the respondent herself and she submits that she has already tendered her affidavit in evidence in the year 2017 and that the trial in the proceedings

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in V-71/2014 before the Metropolitan Magistrate has not concluded because of the applications that the petitioner seeks to keep filing.

A perusal of the order dated 24.10.2019 of the learned ASJ-04, Shahadara makes it apparent that there is no infirmity in the same, in as much as, it observes to the effect that the contentions that the petitioner has raised herein as to whether the respondent is self-sufficient supported by her father are all aspects of trial and that the amount received by the respondent no.2 from the department of Indian Post from the period 2011-2016 being Rs.40813/-, was apparently not sufficient for the period from 2013-2016 for maintaining herself and her child.

The petitioner submits that after meeting his family expenditures, he is left with Rs.2,000/- in hand which is insufficient for his own expenditure.

On a consideration of the submissions that have been made on behalf of either side, this Court is of the considered view taking into account the income of the petitioner which he claims to be Rs.26,000/- per month and which the respondent claims to be Rs.46,000/- per month, the award of interim maintenance to the tune of Rs.12,000/- per month only to the respondent and the minor child of the petitioner and the respondent, cannot be termed to be excessive. In the circumstances, there is no ground to grant the prayer made by the petitioner seeking the setting aside of the order of the Appellate Court and reducing of interim maintenance awarded.

In the said circumstances, thus, it is not considered appropriate to pass any orders qua the prayer made by the petitioner seeking the stay of the execution proceedings that are stated to have been filed by the respondent, however, the learned Trial Court shall expeditiously dispose of the petition that has been filed by the respondent bearing No.V-71/2014, PS Madhu Vihar within a period of four months from today and

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the respondent no.2 shall co-operate in ensuring that the proceedings are completed within a period of four months by the learned Trial Court.

Submissions are also made by the petitioner through his rejoinder that only 25% of his income could be awarded, taking into account the observations hereinabove, there is no ground for variation in the directions as above.

With these observations, the petition and the accompanying applications are disposed of accordingly.

Copy of this order be sent to the learned Trial Court.

ANU MALHOTRA, J

AUGUST 24, 2020
'neha chopra'

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