

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

Reserved on : 17.01.2020
Pronounced on : 01.06.2020

+ **CRL.REV.P. 694/2019 & CRL.M.A.12760/2019 (for stay)**

SUDHIR KUMAR Petitioner

Through: Mr. Deepak Khushalani, Advocate.

versus

URMILA Respondent

Through: Mr. Abhitosh Pratap and Mr.Sandeep
Chauhan, Advocates.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

1. The petitioner has preferred the present petition with the following prayers:

- “a) Summon the TCR and the revision petition of revisionist may kindly be accepted by setting-aside the order dtd. 13.2.2019 passed by the trial court of Sh. R.P. Pandey : Principal Judge : Family Courts : Family Courts : North District : Delhi (Now presided over by Sh. Manu Rai Sethi) in case/MT No. 477/2017, titled as Urmila V/s Sudhir Kumar” wherein interim maintenance of Rs. 4,500/- per month had been allowed in favour of respondent, without considering that revisionist is a Driver and only earning Rs. 11,000/- per month as per Salary Certificate already filed;
- b) Stay the operation of Impugned Order till disposal of present Revision Petition.”

2. In brief the facts of the case are that the marriage between the petitioner and the respondent took place on 07.12.2015, and no child was born from the wedlock. According to the petitioner, the respondent lastly resided with him till May, 2017 and thereafter, without any cogent reason she left his company. The respondent thereafter filed cases U/s 125 Cr.P.C., U/s 12 PWDV Act and a complaint in CAW Cell.

3. According to the petitioner, his salary is Rs.11,000/- per month as he is a driver and in the petition U/s 125 Cr.P.C he has annexed his salary certificate but the family court ignored the salary certificate and on the basis of the minimum wages, awarded Rs.4500/- as interim maintenance to the respondent w.e.f. 29.11.2017 and also awarded Rs.9000/- as litigation charges. The petitioner is aggrieved by the impugned order dated 13.02.2019 by virtue of which the Principal Judge, Family Court has fixed the interim maintenance for the respondent as Rs.4500/- per month w.e.f. 29.11.2017.

4. I have heard the Ld. counsels for the parties and perused the records of the case.

5. It is argued by the counsel for the petitioner that the Family Judge has wrongly fixed the interim maintenance as Rs.4500/- per month by wrongly ignoring his salary certificate given by his employer, according to which his monthly salary is Rs.11,000/- per month. He further argued that the Ld. Trial Judge has ignored the fact that the respondent is also earning by giving tuitions and doing stitching job. He further argued that the Ld. Family Judge has not considered that the petitioner was willing that the respondent should join his company and they should lead a happy married life. He further

argued that the Ld. Family Judge has over looked that respondent had committed forgery by filing property tax receipt/invoices in order to get the enhanced maintenance.

6. On the other hand, it is submitted by the Ld. Counsel for the respondent that there is no infirmity in the impugned order. His further submissions are that the salary certificate is not a reliable document and is below the minimum wages so it should not be considered. It is submitted that the petitioner is the owner of built up property No. RZ-179, measuring 100 Sq. yds., and property No. RZ-180, measuring 100 Sq. yds., both fall in Khasra No. 289, Sayed Nangloi, New Delhi and the respondent has provided ample proof in this regard. It is further submitted that it was because of the conduct of the petitioner that the respondent had to leave the matrimonial home and now in order to escape from the liability of giving maintenance, the petitioner is showing his willingness to keep the respondent.

7. The petitioner, in the instant case, is 8th class pass and is working as a driver with Simons Wood (OPC) Pvt. Ltd. and as per the salary certificate issued by his employer he is drawing a salary of Rs. 11,000/- per month. The Ld. Trial Court has fixed the maintenance to be granted to the respondent as Rs.4500/- per month w.e.f. 29.11.2017 on the basis of Minimum Wages Act ignoring the salary certificate given by the employer of the petitioner. I see no infirmity in the Ld. Family Judge ignoring the salary certificate produced by the petitioner in order to prove his salary and relying on the Minimum Wages Act for the purpose of the category in

which the petitioner falls. On the basis of the Minimum Wages Act, the Ld. Family Court has assessed the income of the petitioner as Rs. 14,000/- per month and granted a sum of Rs. 4500/- per month as maintenance to the respondent relying upon *Annurita Vohra V. Sandeep Vohra, 110 (2004) DLT 546*, and divided the family cake i.e. income of the petitioner into 3 parts out of those 3 parts he gave 2 parts of the salary of the petitioner to him and one part to the respondent. As far as the other contentions of both the parties with respect to the other earning are concerned in regard to both of them as alleged by each one is a matter of trial, which would be taken care of during the relevant stage. The contention of the petitioner that he is willing to live with the respondent does not inspire confidence as he has not uttered a single word in the petition as to what efforts he made to bring back the respondent nor he filed a petition U/s 9 of H.M.A. for the said purpose.

8. In view of the discussions, mentioned hereinabove, I find no infirmity in the impugned order dated 13.02.2019, the same is, therefore, upheld. Consequently, the revision petition is dismissed and Crl. M.A. 12760/2019 is also disposed of accordingly.

RAJNISH BHATNAGAR, J

JUNE 1, 2020

Sumant