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

+ **MAT.APP.(F.C.) 223/2019**

KULDEEP SINGH

..... Appellant

Through: Rahul Rohtagi, Advocate with appellant
in person.

versus

MADHU & ANR

..... Respondent

Through: Mr. Sh. Shagun Mehta, Advocate with
respondent in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **27.02.2020**

1. The appellant/husband is aggrieved by an order dated 30.04.2019, passed by the learned Family Court (Central) Tis Hazari Court disposing of an application moved by the respondent/wife under Section 24 of the Hindu Marriage Act, 1955.

2. As per the facts noted in the impugned order, the appellant has filed a petition for dissolution of marriage against the respondent under Section 13 (1) (ia) and (ib) of the Hindu Marriage Act. In the said petition, the respondent has filed an application for seeking maintenance for herself and the six years old minor daughter of the parties in her care and custody. Both of them are residing with the parents of the respondent/wife.

3. The marriage of the parties was solemnised on 23.01.2013. It is

not in dispute that the parties have been living separately since June, 2018. Both, the appellant and the respondent were known to each other and they had decided to solemnise their marriage at the Arya Samaj Mandir in Delhi on 09.07.2011, whereafter the respondent/wife returned to her parental home. It took two years for both the parties to persuade their parents to accept their relationship and on 23.01.2013, a small function was arranged where the marriage was recognised by the family members. On 14.11.2013, the parties were blessed with a daughter. It is the version of the respondent/wife that the appellant started harassing her and physically assaulting her. After the parties parted company and the respondent moved to her parents' home with the minor child, she admitted her in a nearby school.

4. In the application for maintenance, moved by the respondent, she has averred that the appellant is earning Rs. 50,000/- per month and working as a bookie at the Race Course and being a man of means, she and her minor daughter are entitled to receive maintenance @ Rs. 25,000 per month collectively and a sum of Rs. 20,000 towards litigation expenses.

5. A reply in opposition to the said application was filed by the appellant wherein one of the main issues raised by him was that at the time of their marriage, the respondent was working as teacher in a school and she has deliberately resigned from the said job on 08.10.2018 so as to move the application for maintenance. It has been averred that this was a deliberate act on the part of the respondent and the appellant has an impression that she may have joined some other

school in the neighbourhood but she is unwilling to furnish the relevant details.

6. As for the averments made by the respondent in respect of the appellant's income, the appellant has denied the claim that he is earning over Rs. 50,000/- per month or working as a bookie at the Race Course. It was his contention that he is in a private employment and working as a 'Running Boy' and his gross income is Rs. 25,000/- per month. The appellant has also stated that he is responsible to maintain his aged parents and three sisters from his income, which fact has not been considered by the Family Court.

7. After considering the pleadings in the application, the learned Family Court has directed the appellant/husband to pay maintenance @ Rs. 10,000/- per month to the respondent/wife and the child from the date she had moved the said application i.e., February, 2019 onwards and clear the arrears within six months. Thereafter, month to month maintenance has been directed to be deposited in the bank account of the respondent, on or before the 10th of each calendar month. Aggrieved by the aforesaid order, the present appeal has been filed.

8. Learned counsel for the appellant contends that the respondent is a qualified lady, possesses a degree of M.A. and is pursuing B.Ed; that she was employed at a reputed school as a teacher and was drawing a handsome salary but resigned from the said job in October, 2018 only with the idea of pressurising the appellant to pay maintenance to her and the minor child of the parties; that the respondent is providing private tuitions to students but has failed to

reveal the said fact in her Affidavit of income and liabilities.

9. The aforesaid submissions are however disputed by the learned counsel for the respondent who states that though his client was inclined to file an appeal against the impugned order dated 30.04.2019, on the ground that the amount awarded as interim maintenance in favour of the respondent and the minor child of the parties in her care and custody is not sufficient, but due to paucity of funds, she has decided not to file an appeal and accepted the said order.

10. Learned counsel for the respondent/wife alludes to the Affidavit of income/liabilities filed by the appellant in particular, para 38 thereof, wherein, he has referred to the details of the expenditure incurred on the minor daughter of the parties and stated therein that her school fee is to the tune of Rs.7,083.33 paise per month and that a sum of Rs.583/- is spent on her books and stationery. He states that the moment the impugned order came to be passed, the appellant stopped paying the school fee and other expenses incurred on the minor child and it is the respondent who is having to bear the entire expenses. He adds that besides the monthly fee, books, stationery and other expenses of the child, the respondent is incurring a sum of Rs.1500/- per month on the travelling expenses of the child and if the aforesaid amount is added to a sum of Rs.7,666/-, it would come to over Rs.9,100/-, which itself indicates that the entire amount that has been directed to be paid by the appellant towards maintenance, is actually being spent on the basic needs of the child alone, without including food, clothing, etc. which remains an ongoing expense.

11. As for the submission made by the other side that the respondent/wife has deliberately resigned from the job of a school teacher only to claim maintenance from the appellant/husband, learned counsel states that the entire amount that the appellant has been directed to pay to the respondent and the child towards maintenance, is being spent on the child alone and the respondent is not getting anything from the said amount directed to be paid in terms of the impugned order.

12. We have considered the submissions made by the learned counsel for the parties, perused the pleadings and gone through the impugned order and are of the opinion that the Family Court has balanced the equities and rightly directed the appellant/husband to pay maintenance to the respondent/wife and the minor child @ Rs.10,000/- per month. The appellant's affidavit demonstrates that the expenditure incurred towards the school fee, books etc. of the child is itself to the tune of Rs.7,666/-. If a sum of Rs.1,500/- towards the travel expenses of the child is added, the same would come to about Rs.9,100/-, thus barely leaving Rs.900/- per month towards expenses that are being incurred on the clothes, food etc. of the child.

13. The submission made by learned counsel for the appellant that the appellant has aged parents to maintain besides his sisters, would hardly be of any consideration when admittedly, all the three sisters are adults and remain the primary responsibility of his parents. Even otherwise, the Family Court has taken note of the fact that the appellant has himself admitted that his monthly income is Rs.25,000/- and has then apportioned the maintenance between the parties,

keeping in mind the said figure though, the respondent had claimed a sum of Rs.25,000/- per month towards maintenance.

14. For all the aforesaid reasons, we are of the opinion that the impugned order does not deserve any interference. As a result, the appeal is dismissed as meritless.

HIMA KOHLI, J

ASHA MENON, J

FEBRUARY 27, 2020

hsk/NA