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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 08.02.2021

Pronounced on: 22.02.2021

(1) + **CRL.REV.P. 298/2020**

SAMINA & ORS.

..... Petitioners

Through: Mr.Abhay Mani Tripathi, Advocate

Versus

SYED ASIM PASHA

..... Respondent

Through: Mr.Abinash Kumar Mishra, Advocate

(2) + **CRL.REV.P. 17/2021 & Crl.M.A. 767-68/2021**

SYED ASHIM PASHA

..... Petitioner

Through: Mr.Abinash Kumar Mishra, Advocate

Versus

STATE NCT OF DELHI AT NEW DELHI & ORS. ... Respondents

Through: Mr.Amit Chadha, Additional Public
Prosecutor for respondent No.1/State
Mr.Abhay Mani Tripathi, Advocate
for respondents No.2 to 4

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T

1. The order impugned in both the petitions is dated 20.02.2020 passed by the learned Principal Judge, Family Court, Karkardooma Courts, Delhi, vide which petitioner/husband- *Syed Hashim Pasha* [in Crl. Rev. P. Crl. Rev. P. 298/2020 & Crl.Rev. P.17/2021

17/2021] has been directed to pay maintenance to petitioners/wife & two daughters- *Samina & Ors.* [in Crl.Rev. P. 298/2020].

2. Since these revisions petitions have been directed against a common impugned order, therefore, with the consent of learned counsel for the parties, these petitions were heard together and are being disposed of by this common judgment.

3. The brief facts of the case are that marriage between *Syed Hashim Pashal* husband and *Samina*/wife was solemnized 23.04.2015 at Delhi as per Muslim law. Husband is said to be a permanent resident of Hyderabad and an Engineer by profession. Wife is also said to be a highly educated woman but unemployed. Out of this wedlock, parties are blessed with two daughters. However, the marriage between the parties did not work and they are started living separately since 28.05.2017. The husband is staying at Hyderabad and wife is staying at her parents' house in Delhi. The husband has alleged that despite repeated requests, wife has refused to return to the matrimonial house, whereas the wife has alleged that her husband on 28.05.2017, under a conspiracy brought her and the two daughters to Delhi to meet her parents and left them there and thereafter, put a condition that she should come back only if she brings Rs.5 Lacs from her parents.

4. It is not disputed that multiple litigations between the parties are pending.

5. The marital discord between the parties have been elaborated in detail in the impugned order and is not required be mentioned here. What this Court is required to determine is as to whether there is any illegality or perversity in the impugned order awarding maintenance to the wife and if it is exorbitant or on the lower side, as claimed by the parties.

6. It is not in dispute that since 28.05.2017, the parties have been living separately and their two daughters are living with the wife. The wife has claimed that the husband is an Engineer and earning Rs.2 Lacs p.m. and he has no other liability except to maintain her and two daughters. She has claimed monthly expenditure of Rs.50,000/- for herself and Rs.20,000/- each for two daughters.

7. On the other hand, husband has claimed that the wife is a well educated lady and an international player in shooting and is an international Coach and she imparts training at Tuglakabad Range, Delhi and is earning Rs.25,000/- p.m. The husband has admitted that he is M.Sc in Informatics, but has claimed that he is unemployed and has taken a loan of Rs.10 Lacs and is paying Rs.21,988/- p.m. towards its payment. In addition, he has

claimed monthly expenditure of Rs.28,000/- towards household, transport, medical and health club.

8. In the petition under Section 125 Cr.P.C. filed by the wife, the trial court vide impugned order dated 28.02.2019 had awarded interim maintenance of Rs.12,000/- p.m. to wife and Rs.4,000/- each for both daughters and vide judgment dated 20.02.2020 passed by the Principal Judge, Family Court, the said order was affirmed. While passing the impugned order dated 20.02.2020, the court has observed that the husband was adamant to not pay a single penny to the wife and children and because of his conduct, his right to cross-examine the wife was closed and that there were arrears of maintenance to the tune of Rs.2,00,000/- out of Rs.4,80,000/-.

9. While passing order dated 28.02.2019 The trial court relied upon decision of Hon'ble Supreme Court in ***Jasbir Kaur Sehgal vs. District Judge, Dehradun (1997) 7 SCC 7*** and decisions of this Court in ***Kusum Sharma Vs. Mahender Kumar Sharma 217 (2015) DLT 709*** and ***Radhika Vs. Vineet Rungta 110 (2004) DLT 111*** and observed that parties in matrimonial disputes always try to mislead the court and furnish incomplete details and conceal the true facts specifically with regard to employment and

income and that the courts have to resort to the status and life style of parties for fixing the maintenance.

10. The impugned order dated 20.02.2020 does find mention of affidavits of income and expenditure of both the sides, but is silent about furnishing of copies of income tax returns, salary receipt or even bank statement of the parties. In the absence of documentary evidence on record, the only option left with the trial court is to determine maintenance keeping in mind the totality of circumstances. Neither of the party brought any document on record to establish their case. The husband has failed to bring on record any proof with regard to employment of the wife. Similarly, wife has failed to prove that husband is earning a handsome amount, however, she seeks maintenance. Both the parties did not reach the court with clean hands and have not disclosed true facts with regard to their income and expenditure, as observed by the court below.

11. In the aforesaid view of the matter, I find that the amount of maintenance fixed by the trial court is just and proper and does not call for any interference.

12. The above captioned petitions and pending applications are accordingly dismissed.

13. The judgment be uploaded on the website of this Court forthwith.

(SURESH KUMAR KAIT)
JUDGE

FEBRUARY 22, 2021

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