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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-1355-2021 (O&M)

Date of Decision:- 05.05.2023

Dr. Vishav Shakti

....Petitioner

Vs.

Dr. Monika Panwar

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

**Present:- Mr. Vipin Kumar, Advocate
for the petitioner.**

**Mr. Akshay Jindal, Advocate
for the respondent.**

AMARJOT BHATTI, J. (Oral)

1. The petitioner – Dr. Vishav Shakti has filed present revision against the impugned judgment dated 21.10.2021 passed by learned Additional Sessions Judge, Gurugram, whereby appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005 against the order dated 21.01.2021 passed by learned Judicial Magistrate First Class, Gurugram was dismissed and the same is liable to be set aside which is passed on wrong facts.

2. The brief facts of the case are that Dr. Monika Panwar filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in which she filed application claiming interim maintenance. Dr. Monika Panwar got married with Dr. Vishav Shakti on 24.11.2018 according to Hindu rites and ceremonies. No child was born out of this wedlock. As per the facts, the parents of petitioner now

respondent in the case incurred huge expenses at the time of marriage. However, the husband and his family members were not satisfied with the dowry articles and they started harassing the girl (respondent in this case) for bringing less dowry. They were raising demand for cash and other articles. She was subjected to domestic violence. The husband used abusive and filthy comments for the complainant. On 07.09.2019, the wife was strangled by her husband, however she managed to save herself. He also tried to push her from 28th floor of the tower. Dr. Monika Panwar is pursuing her Post Graduation in Medical Science and her parents are bearing all the expenses. The husband is working as a Medical Officer under the Haryana Government and is receiving handsome salary. The petitioner/wife has no source of income to maintain herself and to bear the expenses of her education. In these compelling circumstances, the application was filed claiming interim maintenance.

3. The application was opposed by Dr. Vishav Shakti respondent (petitioner in the present case) denying all the allegations. She left the matrimonial home without any just and reasonable cause. He and his entire family has been dragged into litigation unnecessarily. Infact, his wife belongs to a very rich family having several houses in different cities including Gurugram. She is also working as a Doctor in a private hospital and getting stipend of Rs. 70,000/- per month from ERA Medical College Lucknow. He has filed petition under Section 9 of the Hindu Marriage Act in Mahendergarh. The present complaint is a counter blast to the said petition. He is a Government Medical Officer getting Rs. 90,000/- per month. He is having his own expenditure of Rs. 30,000/- per month and paying Rs. 25,000/- per month towards education loan and Rs. 15,000/- per month for car loan. The respondent (petitioner in this case) prayed that

the application filed by the applicant/wife may be dismissed.

4. After hearing arguments advanced by learned counsel for both the parties, the learned Judicial Magistrate First Class, Gurugram granted interim maintenance of Rs. 40,000/- per month for the applicant/wife as her expenses from the date of filing of the application/petition alongwith other relief granted under Section 18 of the Protection of Women from Domestic Violence Act, 2005 vide order dated 21.01.2021. Feeling aggrieved of this order Dr. Vishav Shakti filed criminal revision No. 18/2021 which was also declined by the Court of learned Additional Sessions Judge, Gurugram vide judgment dated 21.10.2021 vide which the order passed by the learned Judicial Magistrate First Class, Gurugram was upheld. Feeling aggrieved of this judgment, present revision has been preferred.

5. I have heard the arguments advanced by learned counsel for the petitioner as well as learned counsel for the respondent and have gone through the record carefully.

The learned counsel for the petitioner Dr. Vishav Shakti has argued this revision only on the quantam of maintenance granted in favour of respondent-wife. It is argued that the petitioner is a Government Medical Officer and his monthly salary is to the tune of Rs. 91,969/- per month. His carry home salary is Rs. 75,242/- after compulsory deductions. His annual salary statement is Annexure P-1. It is further pointed out that he is depositing Rs. 25,000/- per month as installment towards education loan. The account statement is Annexure P-2. He is paying monthly installment of Rs. 15,500/- towards the car loan. The account statement pertaining to this is Annexure P-3. The car was purchased by taking loan as it was a necessity for him. On the other hand, the respondent belongs to

a rich family. She is having abundant resources and assets to her disposal. She is owner of Toyota Altis car with VIP number plate. The copy of ownership detail is Annexure P-4. The car was registered in her name on 26.04.2019 after she had separated from him. The affidavit filed by the respondent regarding her assets is Annexure P-5. She is owner of two plots which are worth more than Rs. 4 crores. She is doing M.D. from ERA Medical College, Lucknow on a paid seat and the fees is to the tune of Rs. 60 lacs per annum. She is also drawing monthly stipend of Rs. 50,000/- from the said medical college. She is enjoying luxurious life. She has been taking vacation in United States. The photographs from the said trip is Annexure P-6. Even the family of respondent is owner of several properties including petrol pumps, PGs etc. The learned trial Court has failed to consider the financial status of the respondent. He always intended to lead a happy matrimonial life with the respondent. He has also filed a petition under Section 9 of the Hindu Marriage Act. He had a talk with the mother of respondent Smt. Bimla Devi. The extract of telephonic conversation and translated script is Annexure P-8 and P-9. She is having more than 11 lac rupees in her account in June 2020. Copy of her account statement is Annexure P-10. In these circumstances, the learned trial Court has wrongly granted interim maintenance of Rs. 40,000/- per month from the date of filing of the application. He is to look after his old parents who are dependent on him. He is to incur his own expenditure. It is prayed that the maintenance granted by learned Judicial Magistrate First Class, Gurugram by passing order dated 21.01.2021 is without justification and the appeal preferred by him was wrongly declined vide impugned judgment dated 21.10.2021 without considering the aforesaid facts of the

case. Therefore, the aforesaid order may be set aside as the maintenance has been awarded towards the higher side.

6. On the other hand, learned counsel for the respondent argued that the respondent-wife was treated with cruelty in the matrimonial home as a result of which she filed application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in which she filed application seeking maintenance from her husband. The petitioner is a qualified Doctor and he is doing Government job. He himself admitted his salary as Rs. 91,969/- per month. He has no other liability. The father of the petitioner is also a retired official, therefore he is not dependent on him. The petitioner himself conceded that he has purchased a car and he is paying monthly installments. The petitioner is living luxurious life. He has turned out the respondent from the matrimonial home. He is legally bound to provide maintenance to his wife. After considering the salary of the petitioner, the learned Judicial Magistrate First Class rightly granted maintenance to the tune of Rs. 40,000/- per month. At present, the respondent is doing M.D. from ERA Medical College Lucknow. Therefore, she is getting stipend of Rs. 50,000/- per month and in case she does not go to the hospital then there is proportionate deduction from her stipend. She is totally dependent on her parents. The petitioner is bound to provide maintenance to his wife. Therefore, learned Judicial Magistrate First Class rightly granted maintenance in favour of Dr. Monika Panwar and the appeal preferred by him was rightly rejected. There is no illegality or perversity in the order passed by learned Additional Sessions Judge, Gurugram. Therefore, the revision preferred by the petitioner is liable to be dismissed.

7. I have considered the arguments and have gone through the

record. Some of the facts are admitted in the present case. Dr. Vishav Shakti petitioner got married with Dr. Monika Panwar on 24.11.2018. There is no child out of this wedlock. Due to the matrimonial home dispute, the respondent started residing in her parental house. In the case in hand, both petitioner as well as respondent are qualified doctors. It is admitted that the petitioner is working as a Medical Officer under Haryana Government and is receiving salary of Rs. 91,969/- per month. On the other hand, Dr. Monika Panwar is also MBBS Doctor, who is pursuing her course of M.D. from ERA Medical College, Lucknow. I have also gone through her affidavit Annexure P-5, according to which the yearly expenses is mentioned as approximately 60 lac rupees and monthly expenses of 5 lac rupees on average basis. As per this affidavit, she started residing separate from 07.02.2019. The counsel for petitioner has placed on record the ownership detail of Toyota Corolla Altis Car bearing No. HR-26-DY-9999, Reg. Date 26.04.2019 standing in the name of Monika Panwar. The detail of ownership is Annexure P-4. Apart from this, as per her affidavit regarding assets, she admitted that she is owner of two plots at Gurugram, each measuring 60 yards. In order to establish the financial status of the respondent, the learned counsel for the petitioner has also placed on record the photographs of the respondent during her trip to America, which is Annexure P-6. Therefore, considering the aforesaid documents, it is clear that Dr. Monika Panwar belongs to a well-to-do family. At present she is not working but pursuing her course of M.D. from ERA Medical College, Lucknow where she is getting stipend of Rs. 50,000/- per month.

On the other hand, Dr. Vishav Shakti the present petitioner is

also a qualified Doctor serving as Government Medical Officer and is

drawing salary of Rs. 91,969/-. As per his version, out of this salary, he is paying installment of Rs. 25,000/- towards education loan and Rs. 15,500/- towards car loan. He further stated that he is to look after his old parents. The learned Judicial Magistrate First Class, Gurugram by passing order dated 21.01.2021 granted interim maintenance to the tune of Rs. 40,000/- per month from the date of application and the appeal preferred by the petitioner against this order was declined by passing impugned order dated 21.10.2021 vide which it was held that interim monetary relief to the tune of Rs. 40,000/- is quite reasonable and justified.

In order to grant maintenance, the Court is required to see the financial status of both the parties, their qualification, earning capacity and liabilities, which they are required to shoulder out of their earnings. As referred above, the respondent belongs to a well-to-do family. She is pursuing her MD course from ERA Medical College Lucknow and in the affidavit furnished by her, she has mentioned about her yearly expenditure to the tune of Rs. 60 lacs and monthly expenditure as Rs. 5 lacs. She is owner of a car and she is also owner of two plots situated in Gurugram. On the other hand, the present petitioner is a Government Medical Officer with a monthly salary of approximately Rs. 92,000/- per month. Apart from his own expenditure, he is to look after his old parents. Therefore, considering the monthly salary of the petitioner as Rs. 92,000/- per month on the one hand and the stipend of Rs. 50,000/- per month earned by the respondent on the other hand, the quantum of interim maintenance granted in favour of respondent @ Rs. 40,000/- per month is towards the higher side. Considering the status of both the parties, their assets and liabilities, in my opinion, the quantum of maintenance is not justified and the same requires modification.

In view of my above discussion, the quantum of maintenance is reduced from Rs. 40,000/- per month to Rs. 25,000/- per month from the date of application.

Accordingly, the petition filed by the petitioner is partly accepted.

The petition is accordingly disposed of.

Pending application(s), if any also stands disposed of.

05.05.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No