



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

% **Reserved on: 06th October, 2023**
Pronounced on: 31st October, 2023

+ **MAT.APP.(F.C.) 119/2019 & CM.APPL.18621/2019**

SONAL KAPOOR

..... Appellant

Through: Ms. Sajal Arora & Ms. Purva Dua,
 Advocates with appellant who is
 present through video
 conferencing.

versus

SANJEEV KAPOOR

..... Respondent

Through: Ms. Geeta Luthra, Sr. Advocate
 with Ms. Apoorva Maheshwari,
 Advocates with respondent in
 person.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT

NEENA BANSAL KRISHNA, J

1. The present Appeal under Section 19 of the Family Courts Act, 1984 has been filed against the Order dated 04.02.2019 dismissing the application filed by the appellant/ wife for claiming maintenance under Section 24 of Hindu Marriage Act, 1955 (*hereinafter referred to as "Act"*).



2. The **facts in brief** are that the parties got married on 13.12.1994 at New Delhi according to Hindu customs and rites. The Divorce petition was filed, in the year 2017, by the respondent/ husband claiming divorce on the ground of cruelty and desertion under Section 13 (1) (ia) and (ib) of the Act. During the pendency of the Divorce petition, the appellant/ wife who is the respondent in Divorce Petition) moved an application under Section 24 of the Act, claiming maintenance in the sum of Rs.1 lakh per month aside from Rs.3 lakhs as litigation expenses.

3. Admittedly, no child was born from their wedlock and the parties have been residing separately since 25.03.2003. The respondent/ husband has admitted that he was doing the business of importing Fax machines, trading and TV cable work in New Friends Colony, but claimed that due to differences with his partner there was confusion and clash of business. He joined a Computer course in February/ March, 1998 and subsequently formed a new Company as Visionage and started to take up Web-Designing and Content Writing work. He admitted that the appellant / wife joined him in the office, but asserted that she on her own, stopped going to the office after a few days. He further asserted that the appellant herself left the matrimonial home on 25.03.2003. He further alleged that she has a son, Arnav Mishra from outside their wedlock and without the consent of the respondent/ husband. It is asserted that the child has not been fathered by him and the appellant is guilty of adultery. He has further asserted that appellant was working even prior to the marriage. She resumed her work in 1997 and has various ventures namely :

(A) *Potpourri Dried Flowers*

(B) *Welkin Info Recruitment Agency with one Mr. Jai*



(C) Joined Visionage for content management

(D) Joined an NGO in 2000 in GK-I and continued till she left the matrimonial home.

4. The **appellant, on the other hand**, explained that no child was born from her wedlock with the respondent. She has one son, Arnav, through IUI procedure, where the name of the Sperm Donor is not known to her. She has mentioned the name of her father (i.e., the grandfather of the child), as that of the father of the child, in order to secure legitimacy for the child in future. She has been bringing up the child and providing education to him for the last ten years. She further explained that her monthly income is around Rs.10,000/- per month and that of her mother is Rs.20,000/- per month, though her monthly expenditure is about Rs.30,000/- per month. As per her Affidavit of Income, she has the educational qualification of B.Com and Diploma in Cyber Law. She has FDRs of Rs.50,000/- and gold jewellery worth Rs.10 lakhs gifted to her by her parents at the time of her marriage, though it is asserted that it is in the possession of her mother-in-law. She has also been incurring expenditure on getting herself operated for ovarian cyst. She was detected with Cancer in the year 2005 and had to spend a lot of money on her treatment.

5. The **learned Judge, Family Court** took note of the various savings, FDRs and Bank Accounts including a DEMAT Account and also the alleged monthly expenditure, coupled with the Income Tax Returns for the Year 2017-18, and concluded that the appellant was working and earning a handsome amount and was capable of not only maintaining herself, but also the child. She was, therefore, held not entitled to any



maintenance and her application, under section 24 of the Act, was dismissed.

6. Aggrieved by the said Order, the present appeal has been preferred.

7. **Submissions heard from learned Counsels for both the parties and record perused.**

8. Learned Judge, Family Court has in detail considered the fact that the parties are living separately since 25.03.2003. Though an application under Section 24 of the Act had been filed by the appellant, but she did not pursue it for six years and only resorted to press for interim maintenance when the case was fixed for respondent/husband's maintenance. She as per her own admissions, had an expenditure of Rs.30,000/- per month. She also as a son, from IUI procedure, from a Sperm Donor whose name is not disclosed. She has admitted that the name of the father of the child has been given as that of her father. These admissions show that she has begotten a son without consent or even informing the respondent/ husband.

9. The learned Judge, Family Court has observed in detail that in addition to the jewellery and the money by way of FDRs that the appellant herself has admitted, it was also considered that she has been filing her Income Tax Returns in the year 2017-18 for Rs.2.6 lakhs per annum. In addition, she also has a DEMAT Account and had been trading in the shares heavily. She also has Insurance policies for which she has been making annual contributions.

10. The learned Judge, Family Court has thus, rightly concluded that the appellant is a working woman, having independent source of income



and is able to maintain herself, and has rightly declined her *pendent lite* maintenance under Section 24 of the Act.

11. We find no merit in the appeal, which is hereby dismissed, along with the pending application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

(SURESH KUMAR KAIT)
JUDGE

OCTOBER 31, 2023
Va/JN