

\$~26

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

% Judgment delivered on: 22nd May, 2023

MAT.APP.(F.C.) 145/2023

+ **MAT.APP.(F.C.) 145/2023**

ASHISH RANA Appellant

versus

ANNU DAHIYA Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Puneet Mittal, Sr. Advocate with Mr. Ankit Goel and Mr. R.P. Singh, Advocates with appellant in person.

For the Respondent: Mr. .Shubham Asri, Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.27255/2023 (exemption)

Exemption allowed subject to all just exceptions.

MAT.APP.(F.C.) 145/2023 & CM APPL. 27253/2023 (stay),

CM APPL. 27254/2023 (for condonation of delay), CM

APPL.27252/2023 (for additional documents)

1. Appellant impugns order dated 22.11.2022, whereby, the Family Court, relying on the order dated 06.05.2022 of the Additional Sessions Judge, in an appeal arising out of Mahila Court has assessed

the interim maintenance at Rs.40,000/- per month.

2. It is informed that the Mahila Court by order dated 29.07.2021 had assessed maintenance at Rs.20,000/- per month. In an appeal, the Additional Sessions Judge by order dated 06.05.2022 awarded a sum of Rs.40,000/- per month. Said order of the Additional Sessions Judge dated 06.05.2022 was impugned before a learned Single Judge of this Court in Crl. Rev. P. 442/2022 and the said petition was disposed of by order dated 21.04.2023. This Court, while maintaining the order of Rs.40,000/- held certain observations to be *prima facie*.

3. Learned senior counsel for the appellant submits that in the impugned order dated 21.11.2022, the Family Court has similarly observed that the appellant has extra income apart from his salary and has not disclosed his true income.

4. Learned senior counsel for the appellant submits that since the appellant is a Govt. servant, said observations are likely to prejudice him and prejudice his service record.

5. Learned senior counsel for the appellant submits that appellant would be satisfied in case these observations are treated to be inconclusive and only *prima facie*.

6. We observe that the observations referred to hereinabove have been arrived at without a trial and the order itself records that the Court has reached "*prima facie conclusion*".

7. In view of the fact that Court itself has recorded that the

observations are *prima facie* and further the same have been arrived at without a trial, we direct that the observations shall only be treated as *prima facie* and not conclusive of any fatal matrix.

8. In view of the above, learned senior counsel for the appellant seeks leave to withdraw the appeal.

9. The appeal is dismissed as withdrawn. All rights and contentions of the parties are reserved.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

MAY, 22, 2023
st

