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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 13th October, 2023

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**MAT.APP.(F.C.) 130/2022 & CM APPLs. 38470/2022,
38471/2022, 43945/2023****VIKAS GALOTH**

..... Appellant

Through: Mr. Himanshu Buttan,
Advocate with appellant in person.

versus

MRS. INDU RANI

..... Respondent

Through: Ms. Niharika Ahluwalia & Mr.
Himaghn Jain, Advocates with respondent
in person.**CORAM:****HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. The present Appeal under Section 19 of the Family Courts Act, 1894 has been filed on behalf of the appellant to set aside the impugned Order dated 12.07.2022 passed by the learned Judge, Family Court, Patiala House Courts, New Delhi, in the Application under Section 24 of the Hindu Marriage Act, 1955 (*hereinafter referred to as "HMA, 1955"*) filed by the respondent/wife, thereby granting *pendente lite* interim maintenance in the sum of Rs. 20,000/- per month to the respondent/wife aside from litigation expenses in the sum of Rs. 5,000/-.

2. The appellant/husband had filed a Petition under Section 13(1)(ia) of the HMA, 1955, seeking divorce on the ground of cruelty before the learned Family Court. An application under section 24 HMA, 1955 was filed by the respondent/wife, claiming *pendente lite* maintenance in the sum of Rs.50,000/- per month. *Vide* order dated 12.07.2022, she was granted *pendent lite* maintenance in the sum of Rs. 20,000/- per month and litigation

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expenses in the sum of Rs.5,000/-. Aggrieved by the Order dated 12.07.2022, the present Appeal has been preferred by the appellant/husband.

3. It is submitted that the appellant/husband is 12th pass and is working as a Fitness Instructor in a gym on a fixed monthly salary of Rs. 14,800/- and some additional income is drawn by him from personal training, which varies from Rs. 5,000 to Rs. 10,000/- per month.

4. It is further submitted that the two children of the parties are in the custody of the appellant/husband and he is bearing all their educational and other day-to-day expenses. The respondent/wife is well-qualified and has been working for gain, though it has been wrongly mentioned that she was not working before or after the marriage.

5. It is claimed that the respondent/wife has deliberately concealed her qualifications. The learned Judge, Family Court has incorrectly mentioned, on the basis of the income affidavit, that she has studied only upto 12th Class, when in fact, she has done a Diploma Courses from Shri Institute of Information Technology, Naraina and YACN Computer Learning Network, Jagatpuri, Delhi in IT and Computer Accounts. The respondent/wife is more qualified than the appellant/husband and is capable of earning a good amount, but she has voluntarily chosen not to do a job in order to harass and put pressure on the appellant/husband. Moreover, the parents of the respondent/wife are Government employees and she is getting financial support from her parents as well.

6. It is claimed that the income of the appellant/husband has been wrongly assessed without any basis and without taking the bank statements into consideration. The cash deposits of Rs. 50,000/- on 07.01.2020 in his Bank Account was a loan taken by him. The other cash deposits were made



by the clients of the gym where appellant/husband works for purchase of dietary supplements for the customers. These cash deposits could not have been considered as the income of the appellant/husband. Hence, the present Appeal has been preferred by the appellant/husband to modify the Order dated 12.07.2022 granting interim maintenance to the respondent/wife in the sum of Rs. 20,000/- per month.

7. Learned Judge, Family Court had referred to the various entries made in the Bank Account of the appellant/husband as well as the purchase of four wheeler vehicle by the appellant/husband in the year 2019, without taking any loan and had concluded that the appellant/husband has failed to disclose his true income. After considering the status and the statements of the bank Accounts, the interim maintenance in the sum of Rs. 20,000/- per month aside from litigation expenses in the sum of Rs. 5,000/-, was directed to be paid by the appellant/husband.

8. **Submissions heard from learned counsels for the parties and the documents and evidence perused.**

9. The appellant/husband had placed on record his statement of Bank Accounts in support of his monthly income. The entries when considered show an average of about Rs. 40,000/- to Rs. 50,000/- per month. The credit entries have been explained by the appellant/husband to be on account of personal training sessions with his gym clients. The appellant/husband had also asserted that some amounts were being put by the clients directly in his accounts only for the purpose of buying dietary supplements for them. Even if this explanation is rejected, *prima facie* on an average, he had the income of about Rs. 40,000 to Rs. 50,000/- per month.

10. The respondent/wife admittedly has done Diploma Courses from Shri



Institute of Information Technology, Naraina and YACN Computer Learning Network, Jagatpuri, Delhi in IT and Computer Accounts. During the course of arguments, it was explained that the respondent/wife had suffered burn injuries which led to their separation in the year 2021.

11. It was admitted that the respondent/wife has been attached with a Beauty Parlour as a trainee but it was claimed that she is not drawing any income. However, she explained that after completing the necessary training as a Beautician, she would soon be in a position to earn for herself.

12. We find that though the respondent/wife had suffered burn injuries, she has not been incapacitated from working. She has already been making efforts to become self-sufficient and has been pursuing requisite vocational courses. At the same time, the appellant/husband is not only meeting his own day-to-day expenses but also of the two children who are in his custody, whose monthly expense is around Rs. 20,000/-.

13. Considering the totality of the circumstances, we hereby reduce the interim maintenance from Rs. 20,000/- per month to Rs. 12,500/- per month.

14. Learned Family Court is directed to dispose of the main petition pending before it within a period of six months from today.

15. Accordingly, the present Appeal, along with pending applications, is disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 13, 2023
S.Sharma/ JN