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

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Judgment delivered on: 25.04.2023

+ MAT.APP.(F.C.) 141/2022, CM APPL. 40321/2022 & CM
APPL. 17374/2023

SRIPAL

..... Appellant

versus

SMT.LAXMI

.....Respondent

Advocates who appeared in this case:

For the Appellant: Mr Vishal Chaudhary, Advocate.

For the Respondent: Ms Shikha Arora, proxy Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 06.04.2018, whereby the petition filed by the respondent under Section 125 Cr.PC. has been allowed and maintenance of ₹4,000/- per month w.e.f. the date of filing of the petition i.e. 26.10.2010 has been awarded in favor of the respondent-wife.

2. Learned counsel for the appellant submits that respondent is disentitled to grant of maintenance on the ground that she is having an illicit relationship with a person.

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3. To buttress his argument, learned counsel submits that it is an admitted position that respondent is living with the said person. He relies on some photographs that have been placed on record to substantiate his arguments.

4. We are unable to accept the contention of learned counsel for the appellant for the reason that the statement that respondent is living with somebody is only alleged to be substantiated by the contention that she is living in the same house with that individual.

5. The stand of the respondent is that the said person is the nephew of the respondent and since she was thrown out of the house by the appellant she had to take shelter in the house of the said individual. Further, the photographs merely show four or five persons standing in the photographs along with children. Merely because a photograph is clicked with an individual does not in any manner substantiate the contention that the respondent is having an affair with that individual.

6. It is also an admitted position that the defence of the appellant has been struck off on account of non-payment of the maintenance and as such said defence is also not available to the appellant.

7. The concerned court has fixed only an amount of ₹4,000/- per month as maintenance for the respondent. There is no contention to impugn the same on merits. Accordingly, we find no infirmity in the order fixing maintenance at ₹4,000/- per month or any ground to accept the contention of the appellant that respondent is disentitled for grant of maintenance.

8. In view of the above, we find no merit in the appeal, the appeal is consequently, dismissed. Parties are left to bear their own costs.

SANJEEV SACHDEVA, J.

VIKAS MAHAJAN, J.

APRIL 25, 2023
MK

