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

+ **CRL.M.C. 704/2023 & CRL. M.A. 2729/2023**

ANILKUMAR

.....Petitioner

Through: Mr. Rakesh Kumar Gupta, Advocate.

versus

POONAM

.....Respondent

Through: Ms. Gayatri Nandwani, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

26.07.2024

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1. By way of the present petition, the petitioner seeks to assail the order dated 08.12.2021 passed by the learned District & Session Judge whereby the order dated 18.03.2021 passed by the learned Judicial Magistrate First Class (Mahila Court) granting interim maintenance of Rs. 12,500/- per month to the respondent was upheld.
2. Vide the aforesaid order, learned District and Sessions Judge, while upholding the order passed by Ld. JM, affirmed the observations that in the absence of cogent evidence disclosing the true income of parties, the court has to resort to guess work. Therefore, relying on these principles and in view of material placed on record the trial court assumed the income of the petitioner to be 25,000/- per month and granted an interim maintenance of Rs. 12,5000/- per month.
3. Learned counsel for the petitioner contends that the impugned orders dated 08.12.2021 and 18.03.2021 were passed without appreciating the facts and circumstances of the case. It is stated that the petitioner is merely a



helper in a cricket academy and earns around Rs. 4000/- per month as also stated by him in his income affidavit. It is stated that Ld. Trial Court passed an order of maintenance of Rs. 12,500/- per month, considering the income of appellant at Rs.25,000/- per month, on the basis of forged resume of the appellant, which does not even contain signature of appellant. It is further argued that the respondent herself earns around Rs. 15,000/- per month and is well able to maintain herself.

4. Learned counsel for the respondent has opposed the petition and submits that the petitioner has not approached the court with clean hands. It is stated that the petitioner has concealed the fact that he is earning around Rs. 35000/- per month working as a cricket coach in different schools and colleges. It is also stated that his mother is serving in Indian Railways, therefore, appellant is having no responsibility or liability except to maintain the respondent/wife and the child.

5. I have heard learned counsel for the parties and perused the record. At this stage, without going into the merits of the contentions, I am of the view that the learned Trial Court has rightly assessed and granted the composite interim maintenance amount of Rs. 12,500/- to the respondent and minor child. The petitioner's contention that the respondent is also earning is not supported by any material. On one hand the petitioner has claimed his income to be merely Rs. 4000/- and on the other hand, the respondent has produced petitioner's resume indicating that he is giving cricket coaching at various institutions. Therefore, this Court finds no irregularity in the said impugned orders.

6. Needless to state that the maintenance granted to the respondent is only interim in nature and it shall be open to the parties to seek a variation of



the order under the provisions of PWDV Act if any further evidence is led or material is brought on record. It is also clarified that in case at the time of disposal of the maintenance petition, the Family Court comes to the conclusion that the respondents are entitled for lesser or higher maintenance, the Family Court would be at liberty to grant adjustment of the arrears either way.

7. The present petition and the pending application are disposed of in the above terms.

MANOJ KUMAR OHRI, J

JULY 26, 2024/rd