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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 66/2023**
PREETIPetitioner

Through: Mr. Vishesh Kumar
Raghav, Adv.

versus

VIKAS GAHLOTRespondent
Through: Mr. R.C. Pathak, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

28.08.2024

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1. By the present petition, the petitioner has challenged the order dated 08.12.2022, whereby the challenge of the petitioner to the insufficiency of interim maintenance granted by the Metropolitan Magistrate ('MM'), was dismissed.

2. The learned MM by order dated 26.04.2022 in a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 ('DV Act') had awarded an interim maintenance of ₹12,000/- per month to the petitioner. The challenge to the said order was dismissed by the impugned order.

3. The learned counsel for the petitioner submits that though the learned MM as well as the learned Additional Sessions Judge relied upon the judgment passed by this Court in *Annurita Vohra Vs. Sandeep Vohra : 2004 (74) DRJ 99*. The formula as adopted by this Court in the said case has not been applied properly. He submits that the petitioner was earning a sum of ₹93,000/- per month. However, the petitioner would be satisfied, even if, the income is taken as ₹60,000/- per month as assessed by the learned Trial Court and the maintenance is awarded strictly in terms of the judgment passed by this Court in *Annurita Vohra Vs. Sandeep Vohra* (supra).

4. This Court in *Annurita Vohra Vs. Sandeep Vohra* (supra)



held that the Family Resource Cake which includes the incomes of the both the husband and the wife is to be distributed among the family members. The allocation of this "cake" should align with the financial needs of each family member, and an equitable approach would involve dividing the Family Resource Cake into two portions for the Husband, acknowledging his additional expenses incurred in earning, and one portion each for the other members should be taken.

5. The learned counsel for the petitioner submits that the learned Trial Court though relied upon the judgment passed in *Annurita Vohra Vs. Sandeep Vohra* (supra), but has only awarded 1/5th of the income assessed of the petitioner.

6. The argument that 1/5th of the husband's salary is to be provided to the wife as maintenance has been held as an archaic approach by this Court on many occasions. This Court in *Annurita Vohra Vs. Sandeep Vohra* (supra) had held that it would be extremely loath to restrict the maintenance to 1/5th of the husband's income.

7. It is not disputed that the petitioner is not earning. The relationship of the parties is of husband and wife. Moreover, the order passed by the learned MM has not been challenged by the respondent.

8. In view of the above, the present petition is allowed and the order of maintenance is modified to the extent that the petitioner is awarded 1/3 of the assessed salary, that is, ₹20,000/- per month as an interim maintenance.

9. The petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

AUGUST 28, 2024/“SK”