



2024:DHC:9198



\$~68 & 69

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

% *Date of Decision: 25th November, 2024*

+ **CRL.REV.P. 184/2023**

RAJNI BATRA & ORS.

.....Petitioners

Through: Ms. Meera Kaura Patel
(DHCLSC), Ms. Ritika
Saini, Ms. Manika Pandey
& Mr. Puru Pratap Singh,
Advs. (through VC)

versus

NAVEEN BATRA ALIAS YASHPAL
BATRA

.....Respondent

Through: Mr. Lalit Kumar & Mr.
Manish, Advs. with
mother of respondent

+ **CRL.REV.P. 508/2023, CRL.M.A. 11946/2023,
CRL.M.A. 11947/2023 & CRL.M.A. 12004/2023**

NAVEEN YASHPAL BATRA

.....Petitioner

Through: Mr. Lalit Kumar &
Mr. Manish, Advs. with
mother of petitioner

versus

RAJNI BATRA

.....Respondent

Through: Ms. Meera Kaura Patel
(DHCLSC), Ms. Ritika
Saini, Ms. Manika Pandey
& Mr. Puru Pratap Singh,
Advs. (through VC)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present petitions are filed against the order dated
30.11.2022 (hereafter '**the impugned order dated 30.11.2022**')
passed by the learned Additional Sessions Judge (ASJ), Rohini

Signature Not Verified

Signed By: HARMINDER
KAUR
Signing Date: 29.11.2024
16:57:26

CRL.REV.P. 184/2023

Page 1 of 7



2024:DHC:9198



Courts, Delhi in Criminal Appeal No. 24/2022, whereby the learned ASJ modified the order dated 29.09.2021 passed by the learned Metropolitan Magistrate (MM), Rohini Courts, Delhi in Ct. Case No. 2590/2018.

2. The dispute pertains to interim maintenance awarded under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereafter '**DV Act**') by the learned MM, by order dated 29.09.2021, whereby the petitioner/husband was directed to pay ₹30,000/- per month as interim maintenance (₹10,000/- each to the petitioner/wife and their two daughters). The learned MM relied on *prima facie* findings that the petitioner/husband had access to sufficient resources, including income from ancestral property, to meet his family's interim financial needs.

3. Aggrieved by the order of the learned MM, the petitioner/husband approached the learned ASJ, who partially modified the quantum of interim maintenance. The learned ASJ, *vide* the impugned order dated 30.11.2022, deducted a reasonable amount for the husband's medical expenses from his assessed income. Accordingly, the interim maintenance was reduced to ₹22,000/- per month. This was divided as ₹8000/- each for the two daughters and ₹6000/- for the petitioner/wife, with the stipulation that maintenance to the daughters would continue until they completed their graduation or became financially independent.

4. The learned counsel for the petitioner/husband contends that the amount of ₹22,000/- per month is beyond the petitioner's

Signature Not Verified

Signed By: HARMINDER
KAUR
Signing Date: 29.11.2024
16:57:26

CRL.REV.P. 184/2023

Page 2 of 7



means. He has reiterated his financial incapacity, citing unemployment and medical conditions. He also alleges that the petitioner/wife is gainfully employed and does not require financial support.

5. The learned counsel for the petitioner/wife, on the other hand, seeks enhancement of the interim maintenance. She asserts that ₹22,000/- per month is insufficient to meet the educational and day-to-day needs of the daughters and herself, particularly in light of the escalating cost of living.

6. It is trite law that a husband cannot shirk his sacrosanct duty to financially support his wife. The Hon'ble Apex Court, in the case of *Shamima Farooqui v. Shahid Khan : (2015) 5 SCC 705*, observed as under:

"14. It can never be forgotten that the inherent and fundamental principle behind Section 125 CrPC is for amelioration of the financial state of affairs as well as mental agony and anguish that a woman suffers when she is compelled to leave her matrimonial home. The statute commands that there have to be some acceptable arrangements so that she can sustain herself. The principle of sustenance gets more heightened when the children are with her. Be it clarified that sustenance does not mean and can never allow to mean a mere survival. A woman, who is constrained to leave the marital home, should not be allowed to feel that she has fallen from grace and move hither and thither arranging for sustenance. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of her husband. And that is where the status and strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one. As long as the wife is held entitled to grant of maintenance within the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity as she would have lived in her matrimonial home. She cannot be compelled to become a destitute or a beggar. There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite having sufficient means neglects or refuses to maintain the



wife. Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law. If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right."

(emphasis supplied)

7. Similarly, the Hon'ble Apex Court in the in the case of **Anju Garg and Anr. v. Deepak Kumar Garg : 2022 SCC Online SC 1314**, observed as under:

"10....The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute...."

X-X-X

13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no source of income as his party business has now been closed, the Court is neither impressed by nor is ready to accept such submissions. The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child...."

(emphasis supplied)

8. The DV Act ensures that dependent family members are not deprived of financial support during the pendency of proceedings. Interim maintenance is intended to preserve the dignity and basic needs of the dependents.

9. The petitioner/husband's claims of financial incapacity are not corroborated by substantial evidence. His medical conditions, while noted, do not absolve him of his responsibility to provide maintenance. The learned ASJ, by the impugned order had



original quantum awarded by the MM.

10. It is also undisputed that the petitioner/husband is part of a family business. Even if he claims to be unemployed, he is entitled to an income from the said family business. The courts below have rightly observed that his financial capacity, including his entitlement to ancestral income, obligates him to provide for his wife and daughters.

11. The learned counsel for the petitioner/husband argues that the petitioner/wife is educated and capable of earning her livelihood, and therefore, not entitled to maintenance. However, this argument does not hold merit in the present proceedings. As held in several precedents, the mere capability of earning does not disentitle a wife from claiming maintenance if she is not, in fact, earning sufficient income. Even otherwise, the burden of proving financial independence lies with the petitioner/husband, and he retains the liberty to file an appropriate application before the learned trial court to seek appropriate relief. However, such contentions are a matter of trial and do not affect the validity of the interim maintenance order at this stage.

12. It is not disputed that the petitioner/husband has a subsisting relationship with the daughters, who are entitled to maintenance until they complete their education or become financially independent. The petitioner's obligation to support his daughters is rooted in both legal and moral considerations.

13. The contention of the petitioner/ wife is that the learned ASJ, by the impugned order, erroneously reduced the interim maintenance as awarded by the learned MM. The medical



prescriptions and the documents, placed on record at this stage, show that a substantial amount is required by the petitioner/husband to meet his medical needs. The learned ASJ, considering the medical requirements, had allowed the petitioner/husband to keep a sum of ₹8,000/-. The medical needs of the petitioner/husband are not disputed at this stage. It is common knowledge that a common citizen has to spend large amount of money for medical purposes.

14. In view of the above, the order passed by the learned ASJ, reducing the amount of maintenance by ₹8,000/- does not merit any interference.

15. The learned counsel for the petitioner/wife contends that the daughters were not made parties to the proceedings before the learned ASJ and the interim maintenance awarded by the learned MM was reduced. This argument lacks merit. The same counsel represents the petitioner/ wife and daughters before the learned Trial Court and this Court, indicating their awareness and participation in the proceedings.

16. The objection appears to be a hyper-technicality and cannot serve as a ground to invalidate the impugned order. The essence of justice is not lost due to procedural technicalities, especially when the parties' substantive rights and obligations are adequately addressed.

17. Both the learned MM and the learned ASJ have exercised their discretion judiciously. The reduction of interim maintenance to ₹22,000/- per month by the learned ASJ is a balanced approach that takes into account the



2024:DHC:9198



petitioner/husband's financial medical needs while ensuring that the dependents' needs are also met.

18. It is not disputed that the impugned order is only an order of interim maintenance. The defences raised by the parties, along with the allegations and counter allegations, would be the subject matter of trial, and would have to be decided after the parties have led their evidence.

19. The learned Trial Court is directed to pass the final order uninfluenced by the observations made in this order.

20. In view of the above, this Court finds no reason to interfere with the impugned order, and the petitions are dismissed in the aforesaid terms.

AMIT MAHAJAN, J

NOVEMBER 25, 2024