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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 198/2023, CRL.M.A. 4985/2023 &
CRL.M.A. 4986/2023

NIKHIL PRASANNA JAYANPetitioner

Through: Mr. K. Gireesh Kumar,
Advocate.

versus

SHWETA SHARMARespondent

Through: Mr. Nitesh Tyagi, Mr.
Jugal Bagga, Mr. Sumit
Kaushik, Ms. Priyanka
Tyagi, Mr. Chetram
Kaushik, Mr. Nikhil Tyagi
& Mr. Charanjeet
Khatana, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

11.07.2024

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1. The present petition is filed challenging the order dated 01.11.2022, passed by the learned Principal Judge, Family Court, Rohini Courts, New Delhi, in MT No.56/2021 (hereafter the 'impugned order').

2. The learned Family Court, by the impugned order, has directed the petitioner to pay an interim maintenance of ₹20,000/- per month to the respondent from the date of filing of the present petition.

3. The learned counsel for the petitioner submits that the respondent is well-qualified and is a Dental Surgeon. He further submits that she also holds various degrees.

4. He submits that it is a settled law that in case the spouse, despite being adequately educated, decides not to work, will not be entitled, for any maintenance.

5. He submits that the petitioner is drawing a monthly salary of ₹1,10,000/- and also has to maintain his parents who are



suffering from various ailments. He submits that both parents are also cancer patients.

6. It is not denied that the petitioner at the relevant time was working as a Deputy Commissioner of Income Tax.

7. It is not disputed that the respondent is legally wedded wife of the petitioner, however, at the moment, not staying with him for the reasons as enumerated in the petition filed under Section 125 of the CrPC.

8. The learned Trial Court after considering the affidavits filed by the parties noted that the respondent is presently not having any source of income. The learned Trial Court also excluded the maintenance for the period during which the respondent had admitted to have been employed with an organization and was earning ₹31,000/- per month.

9. 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)

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

11. Thus, it is incumbent on the petitioner, who is an able-bodied man, to financially support the respondent. In such circumstances, the interim monthly maintenance of ₹20,000/-, at this stage, when the learned Trial Court has *prima facie* held that the respondent is not having any source of income, in the opinion of this Court, is not unreasonable.

12. In view of the above, this Court finds no reason to interfere with the impugned order and the petition is dismissed in the aforesaid terms.

13. Needless to say, that the learned Trial Court would pass the final order uninfluenced by any observation made in the impugned order or in the present order.

AMIT MAHAJAN, J

JULY 11, 2024

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