



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

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Date of Decision: 20.02.2024

+ **CRL.REV.P. 240/2024, CRL.M.A. 5490/2024, CRL.M.A. 5491/2024 and CRL.M.A. 5492/2024**

PANKAJ RAHEJA

..... Petitioner

Through: Ms. Gulshan Jahan, Advocate

versus

KIARA (MINOR) THROUGH HER MOTHER NATURAL GUARDIAN
SMT NITIKA KATHURIA

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present petition filed under Section 397/401 read with Section 482 Cr.P.C., petitioner seeks setting aside of the order dated 21.12.2023 passed by the learned Family Court (N/E), Karkardooma Courts, Delhi in Mt. Case No. 495/2022, whereby he has been asked to pay interim maintenance @ Rs.35,000/- per month to the minor child/respondent.

2. A perusal of the records would show that marriage between the petitioner and respondent's mother was solemnized on 06.02.2019 and out of their wedlock, the respondent was born. In the maintenance petition filed on behalf of the respondent, it was claimed that on 22.03.2021, the respondent alongwith her mother were thrown out of the matrimonial home, and since then they had been residing separately. It was further claimed that respondent's mother has been employed in *Unacademy-Sorting Hat Solutions Pvt. Ltd.* however, she is unable to maintain the child/respondent



as she has various other liabilities. It was also claimed that petitioner has been working as Head of Contacts in *Ease My Trip* and drawing a salary of Rs.1.5 lacs per month. It was further claimed that petitioner has no other liability, except maintaining his father, who is already getting pension of Rs.22,000/- per month. Maintenance petition is also premised on the ground that respondent is suffering from autism and requires medical treatment, the cost of which is claimed to be approximately Rs.50,000/- per month.

3. Petitioner resisted the maintenance petition by claiming that he was working on contractual basis and was earning around Rs.60,000/- to Rs.70,000/- per month. Though petitioner has claimed that his parents are dependent on him however, the Family Court noted that petitioner's father had retired from Haryana Govt. services and was getting a pension of Rs.16,000/- per month. The impugned order further records that petitioner's bank account, maintained with Punjab National Bank, had a credit entry in the sum of Rs.90,000/- received from his father, which indicates that the petitioner's father is not financially dependent on him. The petitioner filed a supplementary affidavit before the Family Court stating therein that during the financial year 2019-2020, his income, after deducting taxes, was Rs.9,84,857/- and that for the next financial year i.e., 2020-21 was Rs.7,68,065/-. It was further disclosed that he was employed with *KEYTEL Global, SAU* as Supplier (Consultant) on contract basis with effect from 06.02.2023 to February, 2024. As per the service agreement, petitioner was being paid 2000 USD including VAT and commission @ 5% of the value of the closed contract. A reading of the service agreement showed that the petitioner could claim justifiable expenses upto 400 pounds per month, without taking written consent from the client. The impugned order further



analyzed the bank account of the petitioner, maintained at State Bank of India, where there is a credit entry of Rs.1,62,000/- on 06.03.2023, besides Rs.30,000/- to Rs.40,000/-, from *KEYTEL*. Learned Family Court has taken a conservative estimate of the petitioner's income by assessing his monthly income to be about Rs.1.5 lacs per month, by placing reliance on the decisions in Rajnesh v. Neha & Anr.¹ and Annurita Vohra v. Sandeep Vohra². The Family Court divided the assessed income of the petitioner into three units, out of which one unit has been granted to the respondent. No maintenance has however, been granted to the petitioner's wife i.e., mother of the respondent. It is not disputed that respondent is suffering from autism. Petitioner has also not denied that respondent requires medical expenses incurred on account of her aforesaid ailment.

4. On overall appreciation of the material placed on record, this Court is of the considered opinion that no modification in the impugned order is required at this stage. Consequently, the petition alongwith pending applications are dismissed. However, it is clarified that in case at the time of disposal of the maintenance petition, the Family Court comes to the conclusion that the respondent is entitled to a lesser or higher maintenance, the Family Court would be at liberty to grant adjustment of the arrears either way.

MANOJ KUMAR OHRI
(JUDGE)

FEBRUARY 20, 2024/ga

¹ (2021) 2 SCC 324

² 2004 SCC OnLine Del 192