



2024:DHC:5792



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**Date of decision: 02nd AUGUST, 2024IN THE MATTER OF:+ **CRL.REV.P. 108/2022 & CRL.M.A. 3613/2022****KULDEEP SINGH ANAND**

.....Petitioner

Through: Mr. Pinku Singh, Advocate with
Petitioner in-person.

versus

RAMAN PREET KAUR & ANR.

.....Respondents

Through: Mr. Arjun Dewan and Mr. Jasraj
Singh Chhabra, Advocates.**CORAM:****HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD****ORDER****02.08.2024**

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1. The Petitioner has approached this Court challenging the Judgment dated 25.03.2021 passed by the Ld. Additional Principal Judge, Family Court, Tis Hazari Court, Delhi in MT No.148/2015 fixing the maintenance of Rs.10,000/- (Rs.5,000/- for Respondent No.1/wife and Rs.5,000/- for the Respondent No.2/daughter) from the date of filing of the petition i.e., 28.05.2021.
2. The facts of the case as discernible from the Impugned Judgment passed by the Trial Court are that the marriage between the Petitioner and the Respondent No.1/wife herein was solemnized on 05.02.2012. The Respondent No.1/wife gave birth to a child, i.e. Respondent No.2 herein on 24.02.2013. Dispute arose between the Petitioner and Respondent



2024:DHC:5792



No.1/wife. A divorce case is pending between them which was filed by the Petitioner on the ground of cruelty and desertion under the Hindu Marriage Act.

3. The Respondent No.1/wife had filed a petition under Section 125 Cr.P.C before the Trial Court. An interim maintenance of Rs.3,500/- was directed to be paid to the Respondent No.1/wife by the Petitioner. The said interim maintenance was enhanced to Rs.10,000/- (Rs.5,000/- for Respondent No.1/wife and Rs.5,000/- for the Respondent No.2/daughter) vide Order dated 15.05.2018. The said Order dated 15.05.2018 was challenged by the Petitioner before this Court by filing CRL. M.C 3592/2018 which was dismissed by this Court vide Order dated 22.01.2019.

4. After leading evidence, the Impugned Judgment has been passed by the Trial Court. A perusal of the Impugned Judgment indicates that the Trial Court has taken a sum of Rs.18,000/- being the minimum wages and has fixed the maintenance for both mother and the daughter for Rs.10,000/- per month.

5. Learned Counsel appearing for the Petitioner contends that the Petitioner has filed three months of his salary slips being January, 2020, October, 2020 and January, 2021 before the Trial Court record to show that the Petitioner is only earning a sum of Rs.15,300 per month. He states that since the Petitioner has filed his salary slips showing that he is only earning a sum of Rs.15,300/- per month, the Trial Court could not have assumed that the salary of the Petitioner is Rs.18,000/- per month. Learned Counsel appearing for the Petitioner further contends that the parents of the Petitioner have also filed a petition under Section 125 Cr.P.C claiming maintenance wherein the Petitioner has been directed to pay a sum of Rs.6,000/- per



month to his parents.

6. *Per contra*, learned Counsel appearing for the Respondent/wife contends that the amount of Rs.6,000/- which has been directed by the Trial Court to be paid to the parents of the Petitioner was a consent order and that petition was filed by the Petitioner in collusion with his parents to bring down the total amount which would be available with the Petitioner for payment of maintenance to the Respondent No.1/wife and the children. He further states that the mother and the child have to sustain themselves. He states that the child is about 12 years of age as of now and in view of the increasing needs, even a sum of Rs.10,000/- is not sufficient for the maintenance of mother and the child. He, therefore, states that the Impugned Judgment passed by the Trial Court does not require any interference.

7. Heard learned Counsel appearing for the Parties and perused the material on record.

8. Section 125 Cr.P.C. is a tool for social justice enacted to ensure that women and children are protected from a life of potential vagrancy and destitution. The Supreme Court has consistently upheld that the conceptualisation of Section 125 was meant to ameliorate the financial suffering of a woman who had left her matrimonial home; it is a means to secure the woman's sustenance, along with that of the children, if any. The statutory provision entails that if the husband has sufficient means, he is obligated to maintain his wife and children, and not shirk away from his moral and familial responsibilities.

9. In Bhuwan Mohan Singh v. Meena & Ors., (2015) 6 SCC 353, the Supreme Court examined the underlying purpose as well as social context of Section 125 of the Code, and observed as follows:



“2. Be it ingeminated that Section 125 of the Code of Criminal Procedure was conceived to ameliorate the agony, anguish, financial suffering of a woman who left her matrimonial home forth e reasons provided in the provision so that some suitable arrangements can be made by the court and she can sustain herself and also her children if they are with her. The concept of sustenance does not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else. She is entitled in law to lead a life in the similar manner as she would have lived in the house of her husband. That is where the status and strata come into play, and that is where the obligations of the husband, in case of a wife, become a prominent one. In a proceeding of this nature, the husband cannot take subterfuges to deprive her of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the field, it is the obligation of the husband to see that the wife does not become a destitute, a beggar. A situation is not to be maladroitly created where under she is compelled to resign to her fate and think of life “dust unto dust”. It is totally impermissible. In fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able-bodied. There is no escape route unless there is an order from the court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds.”

10. While adjudicating matters pertaining to this statutory provision, it must be borne in mind that the same was enumerated to further the cause of social justice and that the interpretation of this Section should be done in a manner to prevent a situation wherein the wife or children are inadvertently



nudged into vagrancy and destitution. It is meant to provide a speedy remedy for the supply of food, clothing and shelter to the deserted wife.

11. The Petitioner has filed his three months' salary slips. However, the salary slips could have been proved only by examining the employer to satisfy that the Petitioner was indeed earning only Rs.15,300/- per month. The fact that the Petitioner is only earning Rs.15,300/- per month cannot be established merely by producing the salary slip of a private establishment which could be a shop dealing with hardware and was issued only to help the Petitioner. In view of this, the Trial Court was justified in coming to the conclusion that the salary slips cannot be said to be a reliable piece of evidence to ascertain the salary of the Petitioner and the Trial Court was justified in taking the minimum wages as Rs.18,000/- per month as a measure for calculating the income of the Petitioner. Undoubtedly, the Trial Court has erred in not deducting the expenditure which the Petitioner would incur while calculating the amount of maintenance that would be payable. However, keeping in mind the purpose of Section 125 Cr.P.C which is to ensure that the wife and child are not sent to destitution and do not face vagrancy, the method adopted by the Trial Court for calculating the maintenance amount does not warrant any interference. The Petitioner is staying with his parents. This is a clear indicator that the Petition under Section 125 Cr.P.C filed by the parents of the Petitioner for maintenance from their son was only a measure to bring down the amount that would be available for providing maintenance to the wife. The Petitioner ought not to have adopted such tactics to deprive his wife and child of maintenance which he is otherwise legally and morally obliged to provide.

12. The Respondent No.1/wife and the Respondent No.2/child are



2024:DHC:5792



residing with her parents and a brother who are taking care of the Respondent No.1/wife and the Respondent No.2/child. It was the duty of the Petitioner to take care of the child which he has failed. Material on record indicates that the Petitioner has not contributed any amount of money for the development of the Respondent No.2/child which is his legal and moral responsibility.

13. In view of the above, though there is an infirmity in the Impugned Judgment passed by the Trial Court inasmuch as, the Trial Court has not taken into account the expenses of the Petitioner but taking into account the facts and circumstances of the present case, this Court is of the opinion that the Impugned Judgment passed by the Trial Court does not require any interference.

14. Resultantly, the petition is dismissed, along with pending application(s), if any.

15. It is always open for the Petitioner to approach Trial Court by filing an appropriate application to pay the arrears of maintenance amount in a staggered manner.

SUBRAMONIUM PRASAD, J

AUGUST 2, 2024

S. Zakir