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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1536/2024, CRL.M.A. 6006/2024, CRL.M.A. 6007/2024**

SHRI ABHISHEK SRIVASTAVA Petitioner
Through: None.

Versus

MS SUNITA KAPADIA & ANR. Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
02.05.2024

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1. Present none for the parties. However, considering the nature of the matter i.e., the grant of interim maintenance, I have perused the material placed on record and shall dispose of the said petition by the aforesaid order.
2. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks to assail the order dated 11.12.2023 passed by Ld. ASJ, West District, Tis Hazari Court, Delhi in CA No. 195/2022 titled 'Abhishek Kumar Srivastava v. Sunita Kapadia' whereby petitioner's appeal against the order dated 19.07.2022 passed by the Ld. M.M. came to be dismissed.
3. As per the facts of the case, a complaint came to be filed against the petitioner (alongwith few others) under Sections 12/17/18/20 of the Protection of Women from Domestic Violence Act ('DV Act'). During the course of said proceedings, an application under Section 23 of the DV Act came to be filed, which was disposed of vide order dated 19.07.2022. Vide the said order, the petitioner was directed to pay interim maintenance @



Rs.12,500/- each to both the respondents. The said order was carried in appeal, wherein the same came to be upheld vide the impugned order.

4. In the present petition, the petitioner has contended that the impugned order has been passed without due consideration of the facts and the legal position, inasmuch as, no cogent reason has been provided for grant of such heavy amount as interim maintenance. It has been further contended that the learned ASJ has failed to take note of the fact that respondent No.1 is a qualified lady (which is evidenced by her previous job in an MNC) and that she possesses sufficient experience and financial means to support herself as well as her minor. Further, the petitioner has contended that respondent No.2 had voluntarily deserted the petitioner and his home, as she had no inclination to live with him.

5. Vide order dated 19.07.2022, learned MM observed that while respondent No.1 was earlier working in an MNC and was earning Rs.50,000/-, however, she was presently unemployed. As regards the petitioner, it was observed that he was currently employed with Daksh Concentrics Services Private Limited and drawing a salary of Rs.50,000/-. It was further observed that the petitioner had no liabilities and had only two dependents namely the respondents. Further, after taking note of the decision of this Court in Annurita Vohra v. Sandeep Vohra reported as **2004 SCC OnLine Del 192**, the learned MM came to the conclusion that the respondents were entitled to interim maintenance @ Rs.12,500/- each.

6. In the appeal against the said order, the petitioner raised grounds similar to those raised herein namely that respondent No.1 was capable and qualified to earn handsomely and that respondent No.2 is the defaulting party/deserter. After noting the entire factual situation, the learned ASJ, vide



a detailed reasoned order, came to the conclusion that the order passed by the learned MM was correct in light of the facts of the case. It was observed that though the true status of the parties vis-à-vis their finance would only emerge after evidence is adduced, however, it was the bounden duty of the petitioner to provide for his legally wedded wife and legitimate children. Finally, it was stated that the apportioned amount is neither excessive nor extreme and further, the amount was to be paid from the date of filing of the application till 31.12.2022, whereafter a re-assessment of the income of the parties and entitlement of respondent No.1 would take place.

7. Upon a perusal of the impugned order as well as the order passed by the learned MM, it is discernible that both the Courts below have returned consistent factual findings on the aspect of respondent No.1 being unemployed currently (even though she was earlier working in an MNC and earning well); the fact that petitioner is earning a salary of Rs.50,000/-; and the fact that the petitioner has no other liabilities or dependents except the respondents herein. The petitioner has failed to raise any contention or place on record any document which shows that the interim maintenance @ Rs.12,500/- each is excessive. Further, considering the fact that the same has been directed to be paid from the date of filing of application till 31.12.2022, whereafter a re-assessment has been stipulated, as noted in the impugned order passed by the learned ASJ, I do not find any illegality or perversity in the impugned order and the same is upheld.

8. Consequently, the petition is dismissed alongwith pending applications.

9. Needless to state that in case at the time of conclusion of trial, the Trial Court comes to a conclusion that any higher or lesser amount is to be



given, the Trial Court shall be at liberty to grant appropriate adjustment

MAY 2, 2024

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MANOJ KUMAR OHRI, J