



\$~12

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

+ **CRL.REV.P. 292/2023 & CRL.M.A. 7305/2023,**
CRL.M.A. 7306/2023, CRL.M.A. 7307/2023

MR ASHOK KUMAR MALIK Petitioner
Through: Ms. Mansi Sharma and
Ms. Astha Baderiya, Advs.

versus

MS POONAM MALIK Respondent
Through: Mr. Shafiq Khan, Adv.
(through VC)

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
29.01.2024

%

1. The present petition is filed impugning the order dated 21.04.2022 (hereafter '**impugned order**'), passed by the learned Family Court, Central District, Tis Hazari Courts, Delhi, in Mt No.518/19, whereby the petitioner was directed to pay a sum of ₹8,000/- per month to the petitioner as interim maintenance.
2. The learned counsel for the petitioner submits that the learned Family Court has erroneously passed the impugned order without assessing the income of the petitioner.
3. She states that the learned Family Court has wrongly assessed that the petitioner's family is running a tailor shop, and that the petitioner is employed.
4. She further submits that the petitioner is not able to work due to his medical conditions, and is thus not in a position to maintain the respondent.
5. The learned Family Court, after considering that the family of the petitioner runs a tailor shop, has only awarded an interim



maintenance of ₹8,000/- per month to the respondent.

6. It is noted that the various 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.

7. However, as noted by the learned Family Court, the petitioner in his income affidavit has clearly accepted that the tailoring shop where he is employed belongs to his father.

8. While the learned Family Court has not assessed the income of the petitioner, this Court in a catena of judgments has noted that some guesswork on the part of the Court is permissible when determining maintenance under Section 125 of the Code of Criminal Procedure.

9. The petitioner is present in person in the Court, and is an able-bodied man. His contention that he is unable to work due to medical issues cannot be accepted. The Hon'ble Apex Court, 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)

10. Even the minimum wages for an unskilled employee, as on



today, in Delhi are ₹17,494 per month. The petitioner being an able-bodied man is legally obligated to maintain his wife and minor daughter. In such circumstances, the monthly maintenance of ₹8,000/-, in my opinion, is even otherwise reasonable.

11. This Court finds no infirmity with the impugned order.

12. In view of the above, the present petition, along with the pending applications, is dismissed.

AMIT MAHAJAN, J

JANUARY 29, 2024

'KD'