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

+ **CM(M) 2003/2024**

AMIT KATYAL

..... Petitioner

Through: Ms. Malvika Rajkotia, Ms. Radhika
Gupta and Ms. Trisha Gupta, Advs.

versus

HENNA ALAGGH

..... Respondent

Through: Mr. Prosenjeet Banerjee, Ms. Ritika
Jhurani, Mr. Sarthak Bhardwaj and
Ms. Prachi Anand, Advs.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

29.02.2024

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CM APPL. 12639/2024—Exp.

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 2003/2024, CM APPL. 12638/2024—stay

3. The present petition under Article 227 of the Constitution of India has been filed impugning the order dated 01.12.2023 passed by the learned Judge, Family Court, Patiala House Court (“Family Court”), Delhi in petition bearing no.960/2022 titled as “*Amit Katyal vs. Henna Alaggh*”, whereby the learned Judge, Family Court granted an ad-interim maintenance in favour of the respondent/wife under Section 24 of Hindu Marriage Act, 1955 (hereinafter referred to as “HMA”).
4. The petitioner has filed a petition under Section 12(1)(a) and 12(1)(c)



of HMA before the learned Judge, Family Court. Respondent herein filed an application under Section 24 of the HMA. Subsequently, petitioner had filed an application under Order VI Rule 17 CPC Civil Procedure Code, 1908 (hereinafter referred as “CPC”) seeking amendment as well as application under Section 340 Code of Criminal Procedure(hereinafter referred to as “CrPC”) for initiating inquiry against the respondent. The respondent wife has also preferred petition under Section 125 CrPC seeking maintenance from the petitioner and by way of ad-interim maintenance of Rs. 1,00,000/- the said petition was allowed by the learned Judge, Family Court, which was subsequently challenged by the petitioner in Criminal Revision petition 1024/2023 and was stayed by the learned Single Judge of this Court vide order dated 19.10.2023. The learned counsel submits that in the meanwhile, the petitioner was in judicial custody in some Enforcement Directorate matter and has been released on 05.02.2024 on interim bail. Hence, under these circumstances, the petitioner could not pay maintenance to the respondent/wife.

5. The learned counsel further submits that, therefore passing of the impugned order is punitive specifically, when already an interim maintenance order passed by the learned Judge, Family Court under Section 125 CrPC has been stayed by this Court.

6. It is also submitted that the petitioner has already made arrangement for maintenance of the respondent by giving her a sum of Rs. 92,50,000/- lakhs and admittedly with the same amount she has purchased a Mercedes car, therefore, taking an overview of the entire circumstances, the impugned order dated 01.12.2023 be stayed as the application under Section 24 HMA is yet to be heard by the learned Judge, Family Court.



7. While sternly negating the submissions, the learned counsel for the respondent submits that the application under Section 24 HMA has been pending disposal since 11.07.2023 and respondent/wife has not been provided with maintenance of even a single penny by the petitioner. Moreso, the petitioner has failed to file his income and liability affidavits before the learned Judge, Family Court despite the fact that three opportunities were granted to him by learned Judge, Family Court, in fact the respondent is being deprived of her legal right creating unmerciful circumstances for her. Accordingly, left with no choice the learned Judge, Family Court rightly fixed ad-interim maintenance of Rs. 1,00,000/- to be paid by the petitioner to the respondent/wife. The impugned order suffers from no illegality requiring superintence of this Court under Article 227 of the Constitution of India.

8. Proceeding further, the learned counsel for the petitioner submits, in so far that the application under Section 24 HMA is yet pending disposal and by way of impugned order, the learned Judge, Family Court has made only an ad-interim arrangement of payment of maintenance, the petitioner is willing to pay Rs. 30,000/- per month as ad-interim maintenance with effect from 01.12.2023 till the disposal of the application under Section 24 HMA before the learned Judge, Family Court without prejudice to rights and contentions of the petitioner to be raised before the learned Judge, Family Court.

9. The learned counsel for the respondent although proposed for payment of at least fifty percent of the ad-interim maintenance as awarded by the learned Trial Court but conceded to the ad-interim arrangement for payment of maintenance suggested by learned counsel for the petitioner but



without reflecting on the merits of the case or the application and requested for early disposal of the application.

10. Having considered the above submissions, the learned Judge, Family Court is directed to hear the arguments on the application under Section 24 HMA on the next date of hearing fixed before it, i.e. 05.03.2024 and to dispose of the application preferably within two months. In the meanwhile, the petitioner shall pay ad-interim maintenance of Rs. 30,000/- per month w.e.f. 01.12.2023 till disposal of application moved under section 24 HMA without prejudice to rights and contentions of the parties. The petitioner is directed to file his income, assets and liabilities affidavit before learned Judge, Family Court on or before the next date of hearing with an advance copy to the opposite side. The observations made in the present order shall not tantamount to the expression of merits of the case.

11. With above directions, the petition along with pending applications stands disposed of.

SHALINDER KAUR, J.

FEBRUARY 29, 2024/SDS/DP