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

+ CRL.M.C. 2129/2024, CRL.M.A. 8269/2024 and
CRL.M.A. 8270/2024

VINOD DURGAPAL

..... Petitioner

Through: Mr.Satpal Singh, Advocate with
petitioner in person

versus

BABITA DURGAPAL

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

05.04.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks setting aside of the order dated 27.04.2023 passed by the learned Judge, Family Court, Shahdara, Karkardooma Court in Mt. Case No.730/2018 titled as 'Babita Durgapal vs Vinod Durgapal' in the proceedings arising under Section 125(3), Cr.P.C.

2. The petitioner, who was impleaded as a respondent before the learned trial court, contends that vide the impugned order, the family court erred in directing him to pay interim maintenance @ Rs.10,000/-. It is contended that the respondent had also approached the Family Court, Shahdara wherein, in an application filed under Section 24 of the Hindu Marriage Act ('HMA'), interim maintenance @ Rs.7000 per month has already been granted and the same is being paid since April, 2022.



3. I have heard learned counsel for the petitioner. A perusal of the impugned order as well as the other material placed on record would show that the respondent is the legally wedded wife of the petitioner. In her petition, the respondent had claimed that her marriage with the present petitioner was solemnised on 10.11.2016 at Dilshad Garden, Delhi according to Hindu rites and customs. She further alleged that she was thrown out of her matrimonial home for not being able to fulfil the dowry demands raised by the petitioner and his family. In the underlying application, she had demanded interim maintenance @ Rs.50,000/- per month for herself and the minor child. The petitioner filed his response to the said application, admitting that the respondent had left the matrimonial home on 31.07.2017 and that at the time of their marriage, the respondent was employed with St. Paul East Delhi Public School, however, she left the job in 2017. In the impugned order, the Court noted that the petitioner had admitted that he was working with Motilal Oswal Financial Services Ltd., Tolstoy House, C.P., Delhi as Assistant Manager- Dealer Branch in account office. Though the petitioner claimed that he had left the job, however, the family court took note of the bank statements of the petitioner, which reflected many entries of substantial amounts like Rs.91,533/-, Rs.27,833/-, Rs.29,425/- and Rs.28,882/- in the year 2021, which indicate that the petitioner had some other regular source of income. In the impugned order, the family court assessed petitioner's monthly income to be Rs.24,000/- and while considering petitioner's contention that he had the responsibility of his dependent parents and sister, divided the same into five shares and granted two shares to the respondents.

While passing the impugned order, the Court also noted that any ad-



interim maintenance already paid in the present proceedings or the maintenance granted in any other proceedings shall be subject to the adjustment.

4. In the considered opinion of this Court, the impugned order is passed keeping in light the decision of a Coordinate Bench in Annurita Vohra v. Sandeep Vohra reported as **2004 SCC OnLine Del 192**. Further, vide the impugned order, the petitioner has already been granted adjustments of any ad-interim maintenance as well as any maintenance paid in any other proceedings.

5. In view of the above, I find no ground to entertain the present petition. Accordingly, the same is dismissed alongwith the pending applications. 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 lesser or higher maintenance, the Family Court would be at liberty to grant adjustment of the arrears either way.

MANOJ KUMAR OHRI, J

APRIL 5, 2024

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