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

+ **CRL.REV.P. 426/2024**

KUMAR GAURAV CHAUHAN

.....Petitioner

Through: Mr. Shashikant B. Singh and Ms.Komal,
Advocates

versus

DEEPIKA AND ANR

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **26.11.2024**

1. By way of present petition, the petitioner/revisionist seeks to assail the judgment dated 30.11.2023 passed by the Principal Judge, Family Court, Shahdara District, Karkardooma Court, Delhi in maintenance petition bearing M.T. 518/2019. Vide the impugned judgment, the petitioner/husband has been directed to pay maintenance of Rs.10,000/- per month to respondent No.1/wife and Rs.5000/- to respondent No.2/minor child.

2. Learned counsel for the petitioner submits that the impugned judgment is based on surmises and conjectures rather than a proper appreciation of evidence and therefore, it deserves to be set aside partly. He submits that the learned Court erred in assessing the petitioner's income at Rs. 30,000/- without any cogent proof to support this finding. It is further submitted that the petitioner has liabilities, including the responsibility of caring for his elderly parents, who are entirely dependent on him. Lastly, it is contended that respondent No.1 is fully capable of earning and has sufficient means. Respondent No.1 has filed the maintenance case solely to



harass the petitioner.

3. With the assistance of learned counsel for the petitioner, I have gone through the impugned judgment as well as the material placed on record.

4. A perusal of the impugned judgment would show that the Family Court, taking into account petitioner's admission of working in real estate and considering his willingness to transfer a flat in favour of respondent No.1, assessed the petitioner's income at Rs. 30,000/- per month. It was also observed that although the petitioner claimed that respondent No.1 is working as a beautician and earning Rs. 25,000/- per month, no evidence was provided to substantiate the said claim. On the contrary, respondent No.1 submitted an affidavit of income alongwith her bank statements to demonstrate that she is unemployed and has no independent source of income.

5. Accordingly, the Family Court, vide the impugned judgment, divided the petitioner's income into four portions and granted maintenance of Rs.10,000/- per month to respondent No.1 and Rs.5,000/- per month to respondent No.2/minor child.

6. On a careful perusal of the material placed on record, this Court is of the considered opinion that the Family Court has made a just assessment of the petitioner's income on the basis of the material placed before it and the impugned judgment has been passed in light of the well-established line of decisions like Rajnish v. Neha & Anr¹ and Annurita Vohra v. Sandeep Vohra². In the decision of a Coordinate Bench of this Court in Annurita Vohra (Supra), it was held as follows:-

¹ (2021) 2 SCC 324

² 110 (2004) DLT 456



“2. In other words the court must first arrive at the net disposable income of the Husband or the dominant earning spouse. If the other spouse is also working these earnings must be kept in mind. This would constitute the Family Resource Cake which would then be cut up and distributed amongst the members of the family. The apportionment of the cake must be in consonance with the financial requirements of the family members, which is exactly what happens when the spouses are one homogeneous unit. Ms. Geeta Luthra, learned counsel for the Respondent, had fervently contended that normally 1/5th of the disposable income is allowed to the Wife. She has not shown any authority or precedent for this proposition and the only source or foundation for it may be traceable to Section 36 of the Indian Divorce Act, 1869. This archaic statute mercifully does not apply to the parties before the Court, and is a vestige of a bygone era where the wife/woman was considered inferior to the husband as somewhat akin to his chattels. The law has advanced appreciably, and for the better. In the face of Legislatures reluctant to bring about any change over fifty years ago the Courts held that the deserted wife was entitled to an equal division of matrimonial assets. I would be extremely loath to restrict maintenance to 1/5th of the Husband's income where this would be insufficient for the Wife to live in a manner commensurate with her Husband's status or similar to the lifestyle enjoyed by her before the marital severance. In my view, a satisfactory approach would be to divide the Family Resource Cake in two portions to the Husband since he has to incur extra expenses in the course of making his earning, and one share each to other members.”

7. Considering the above and in absence of any contrary material placed on record, the impugned judgment does not call for any interference. Accordingly, the petition stands dismissed.

MANOJ KUMAR OHRI, J

NOVEMBER 26, 2024/na