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

% *Date of decision: 01.04.2024*

+ **MAT.APP.(F.C.) 102/2024**

SHEKHAR SHARMA

..... Appellant

Through: Ms Sonakshi Chaturvedi, Advocate.

versus

PURNIMA SHARMA

..... Respondent

Through: None.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 19054/2024

1. Allowed, subject to just exceptions.

MAT.APP.(F.C.) 102/2024 and CM APPL. 19053/2024 *[Application filed on behalf of the appellant seeking condonation of delay of 172 days in filing the appeal]*

2. This appeal is directed against judgment and order dated 22.08.2023 passed by the Family Court.

3. *Via* the impugned judgment and order, the Family Court has dismissed the application preferred under Section 24 of the Hindu Marriage Act, 1955 [in short, "1955 Act"] by the appellant/husband.

4. The case set up by the appellant/husband before the Family Court is



that he has no regular source of income and that he was earning Rs.8,000/- per month, which was much less than what the respondent/wife is earning i.e., Rs.90,000/- per month.

5. We are told that presently the appellant/husband is earning Rs.9,000/- per month, out of which Rs.4,000/- is paid as maintenance for the upkeep of the children.

6. In sum, the appellant/husband seeks maintenance from the respondent/wife.

7. We have queried the counsel for the appellant/husband as to whether the salary slip concerning income received by the appellant/husband was placed on record before the Family Court.

7.1 Learned counsel for the appellant/husband says that no salary slip was issued to the appellant/husband by the employer, and therefore, could not be placed on record before the Family Court.

7.2 According to the appellant's counsel, the salary was received in cash.

8. We have also queried whether the cash receipt was signed and submitted by the appellant/husband to his employer.

8.1 Counsel for the appellant/husband says that no such document appears to have been generated.

9. Therefore, there is nothing on record to show that the appellant/husband is earning Rs.9,000/- as claimed, per month, by way of salary.

10. The Family Court has recorded in the impugned judgment and order that there are several entries which show that substantial amounts of money stand credited from time to time in the bank account maintained by the appellant/husband.



10.1 For convenience, the relevant part of the impugned judgment and order are set forth hereafter:

“....As per bank statement, respondent is receiving regular entries in his bank account and during the period between 03.01.2021 to 13.02.2023, he has deposits of amount of Rs. 49,000/- on 06/01/2021, Rs. 3,600/- on 27/01/2021, Rs. 1,500/- on 31 /01/ 2021, Rs. 5,000 /- on 05/02/2021 and Rs 6000/- on 07/02/2021, Rs. 6,000/- on 13/03/2021, Rs. 8000/- on 15/04/2021, Rs. 12,000/- on 13/10/2021, Rs. 10000/- on 21/12/21 and Rs. 25,000/- on 18/04/2022, Rs. 25,000/- - on two occasions on 06/05/2022, Rs.8,000/- and Rs.5000/- on 04/05/2022 respectively. Rs. 52,000/- deposited on 07/06/2022, Rs. 35,000/- on 07/07/2022, Rs. 20,000/- on 12/05/2022 and Rs. 10,000/- on 14/08/2022 and Rs. 10,000/- on many occasions regularly...”

11. Given this position, we are not inclined to interfere with the impugned judgment and order.

12. We may also note that this appeal has been filed after a delay of nearly 172 days.

13. At the stage when we were about to conclude our decision, learned counsel for the appellant/husband has placed before us a judgment of the learned Single Judge rendered in ***Rani Sethi v. Sunil Sethi***, 2011 SCC OnLine Del 1632.

14. A perusal of the judgment shows that relevant material was placed on record to demonstrate the income said to have been earned by the petitioner. It is well-established that questions concerning maintenance are pivoted on the relevant material placed before the Court. As we have indicated above, although there are credit entries in the bank account of the appellant/husband, there is no real explanation as to the source of the credit entries. The judgment is, in our view, distinguishable on facts, and



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therefore, will not help the cause of the appellant/husband.

15. Given this position, the appeal is dismissed.

16. Pending application shall also stand disposed of.

RAJIV SHAKDHER, J

AMIT BANSAL, J

APRIL 1, 2024/tr

Signature Not Verified

Digitally Signed By: ATUL
JAIN

Signing Date: 24.04.2024
18:08:23

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