



2024:DHC:3504



\$~54

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 02.05.2024***+ **CRL.M.C. 3475/2024**

MS PRACHI JAIN

..... Petitioner

Through: Mr.Anukrit Gupta, Mr.Arbaaz
Hussain, Advs.

versus

SHRI SUNIL KUMAR JAIN

..... Respondent

Through: Mr.Rohit Gandhi, Mr.Hargun
Singh Kalra, Ms.Akshita
Nigam, Ms.Nikita Sharma,
Mr.Surender Sharma,
Ms.Chintu Jain, Advs.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)****CRL.M.As. 13361-62/2024 (Exemption)**

1. Allowed, subject to all just exceptions.

CRL.M.C. 3475/2024 & CRL.M.A. 13360/2024

2. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), challenging the order dated 21.02.2024 passed by the learned Additional Sessions Judge-07, South East District, Saket Courts, New Delhi (in short, 'ASJ') in CA No.144/2023, titled ***Prachi Jain v. Sunil Kumar Jain***, dismissing the appeal filed by the petitioner herein against the order dated 18.03.2023



2024:DHC:3504



passed by the learned Metropolitan Magistrate (Mahila Court), South East District, Saket Courts, New Delhi in Complaint Case 619413/2016, titled **Anita Jain vs. Sunil Jain**.

3. The brief facts leading to the present petition are as under:
- The petitioner alongwith her mother had filed the above complaint case under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short, 'DV Act') *inter alia* claiming maintenance under Section 20 of the DV Act;
 - The learned Metropolitan Magistrate, vide order dated 29.05.2019, directed the respondent to pay a sum of Rs.50,000/- each, to the petitioner and her mother;
 - The said order was challenged by the respondent before the learned Sessions Court in Criminal Appeal No.348/2019, titled **Sunil Kumar Jain v. Anita Jain & Anr.**, which was dismissed vide order dated 15.11.2019.
 - The said order was challenged before this Court in the form of a petition under Section 482 of the Cr.P.C., being CrI. M.C. 6430/2019, titled **Sunil Kumar Jain v. Anita Jain & Anr**;
 - During the pendency of the said petition, the respondent filed an application under Section 25(2) of the DV Act before the learned Metropolitan Magistrate, seeking modification of the order dated 29.05.2019 contending that the petitioner has been gainfully employed since July, 2018. The said application was disposed of by the learned Metropolitan Magistrate vide order dated 18.03.2023, holding that the petitioner is no longer entitled to the *interim* maintenance from the date of her gainful



2024:DHC:3504



employment, while directing the respondent to clear the arrears of maintenance from the date of the petition till the date the petitioner was gainfully employed, being July 2018;

- f) The petitioner challenged the said order by way of an appeal, being CA 144/2022, which has been dismissed by the learned ASJ vide order dated 21.02.2024. The learned ASJ while upholding the order of the Metropolitan Magistrate dated 18.03.2023, made a modification to it, holding that the petitioner is entitled to maintenance from the date of filing of the petition only to the date of her attaining majority.

4. The learned counsel for the petitioner submits that the petitioner herself was a complainant before the learned Metropolitan Magistrate. She is also an 'Aggrieved person' in terms of Section 2(a) read with Section 2(f) of the DV Act. The above submission is disputed by the learned counsel for the respondent.

5. From the reading of the Impugned Order, it is apparent that the learned ASJ has not considered the above submission of the petitioner and has passed the Impugned Order, only having considered whether the petitioner would be entitled to seek maintenance after attaining majority in view of the definition of the 'child' in terms of the Section 2(b) of the DV Act.

6. In my view, the submission made by the petitioner would have to be considered by the learned ASJ on the facts of the case as presented before it.

7. In view of the above, and without prejudice to the rights and contentions of either party, the Impugned Order dated 21.02.2024 is



2024:DHC:3504



set aside and the appeal is restored back to its original number. The learned ASJ shall decide the same afresh after hearing the parties. The issue whether the petitioner can claim maintenance, once she gains employment, shall also be considered by the learned ASJ.

8. The parties shall appear before the learned ASJ on 29.05.2024. The learned ASJ is requested to expedite the hearing of the appeal.

9. With the above direction, the present petition and the application are disposed of.

10. Copy of this order be also sent to the learned ASJ for information and necessary compliance.

NAVIN CHAWLA, J

MAY 2, 2024/Arya/am

Click here to check corrigendum, if any