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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 679/2024&CRL.M.A. 15492/2024**

PINKI & ANR.

..... Petitioners

Through: Ms. Meera Kaura Patel (DHCLSC),
Mr. Piyush Goel, Mr. Himanshu Rai,
Advocates. (through VC)

versus

JAYVIR SINGH ALIAS TITU

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

20.05.2024

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1. By way of present petition filed under Sections 397/401 read with Section 482 Cr.P.C., the petitioners seek enhancement of the final maintenance and modification of the order dated 14.02.2024 passed by learned Judge, Family Courts, East District, Karkardooma Courts, Delhi in MT No.37/2022.

2. Facts, as discernible from the records, are that marriage between petitioner No.1 and respondent No.2 was solemnised in 2012 according to Hindu rites and rituals. Out of their wedlock, one minor son (presently in the custody of respondent) and one minor daughter/petitioner No.2 (presently in the custody of petitioner No.1). Subsequently, an application/petition under Section 125 Cr.P.C. came to be filed by the petitioners, wherein it was alleged that the petitioner No.1 was harassed and tortured on account of dowry demand by the respondent and his family members. The petition also



stated that certain complaints were also made to the Delhi Women Commission and CAW Cell.

3. Notice of the petition came to be served upon the respondent, and during the pendency of the petition, ad-interim maintenance was granted to the petitioners @ Rs.4,000/- per month till the next date of hearing (i.e. 01.11.2022) vide order dated 14.07.2022. The said order was passed after duly noting the submission of the respondent that he was working as a driver in Canter and was earning Rs.10,000/- per month, although the same was disputed by learned counsel for the petitioners.

While the respondent had initially appeared alongwith his counsel, subsequently, he failed to file his written submission and income affidavit as well as stopped appearing before the court. Consequently, vide order dated 16.11.2023, the respondent was proceeded ex-parte and ex-parte evidence of the petitioners was duly recorded.

4. After perusal of the ex-parte evidence, learned Judge passed the impugned order. In the said order, it was noted that in her affidavit of assets and liabilities, in the column of education and professional qualification, petitioner No.1 had mentioned 'No'. She further stated that she was a housewife and was not earning anything. Insofar as the respondent was concerned, the petition as well as in the affidavit, education qualification of the respondent was mentioned as 10th Pass and he was stated to be doing job of driver with Transport Co-operation in Etha, Uttar Pradesh as well as a part time job. As per petitioner No.1, the respondent was stated to be earning Rs.30,000/- and also having an ancestral property in Allehpur, Etha, Uttar Pradesh. After noting the aforesaid as well as the prevalent minimum wages rate in State of Uttar Pradesh, respondent's income was assessed to be



Rs.10,000/-. It was observed that the respondent had only four dependents namely himself, petitioner Nos.1 and 2, and a minor son and dividing the income into equal shares, with two shares for the respondent/husband, the respondent was directed to pay maintenance @ Rs.2,000/- per month to each of the petitioners.

Insofar as petitioner No.1 was concerned, the maintenance was directed to be paid from the date of filing of the present petition till her lifetime or till she gets remarried after divorce or till date she is able to maintain herself. Insofar as petitioner No.2 was concerned, the maintenance was directed to be paid from the date of filing of the present petition till she gets married.

5. Learned counsel for the petitioners contends that impugned order has been passed without due consideration of the facts and circumstances of the case. It is stated that the respondent himself had admitted to be working as a driver and considering that such an individual is considered to be a 'skilled' worker, the assessment of his income as Rs.10,000/- was incorrect. It is further contended that though certain ad-interim maintenance was granted to the petitioner, the respondent had failed to make any payment towards the same.

6. At the outset, it must be noted that the impugned order was an ex-parte order that came to be passed after considering the evidence led on behalf of the petitioners. While petitioner No.1, in her affidavit of assets and liabilities, had mentioned respondent's monthly income to Rs.30,000/-, however, no supporting evidence in the form of salary slips or bank account statements were provided to substantiate the same. Further, before the respondent was proceeded ex-parte, he had appeared before the court and



had admitted that he was working as a driver and earning Rs.10,000/- monthly, as finds mention in the order dated 14.07.2022.

After considering all these aspects, the learned Judge assessed respondent's income as Rs.10,000/- and consequently, fixed the maintenance @ Rs.2,000/- per month for each of the petitioner.

7. Even in the present proceedings, apart from contending that assessment of respondent's income by the learned Judge is incorrect and a bald averment that the respondent is a 'skilled' worker, no evidence has been placed on record to substantiate the same. In view of the aforesaid discussion and after considering the peculiar facts of this case, this Court is of the considered opinion that the present petition must fail.

8. Consequently, the petition alongwith pending application is dismissed and disposed of.

9. Needless to state that if the petitioners are able to find any proof, they shall be at liberty to approach the concerned court under Section 127 Cr.P.C. for modification of the maintenance granted.

MANOJ KUMAR OHRI, J

MAY 20, 2024/Ni