



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

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Date of Decision: 07.03.2024

+ **CRL.M.C. 5563/2023, CRL.M.A. 21013/2023 and CRL.M.A. 21014/2023**

SHIV RAM SINGH

..... Petitioner

Through: Mr. Raj Kumar Mittal, Advocate with
petitioner in person

Versus

RUBY GAUTAM & ORS.

..... Respondents

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. Himanshu Pathak and Mr.
Samman Kumar, Advocates

AND

+ **CRL.M.C. 6318/2023**

RUBY GAUTAM & ORS.

..... Petitioners

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. Himanshu Pathak and Mr.
Samman Kumar, Advocates

Versus

DR SHIV RAM SINGH & ANR.

..... Respondents

Through: Mr. Raj Kumar Mittal, Advocate with
petitioner in person

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present petitions have been filed under Article 227 of the Constitution of India and Section 482 Cr.P.C. impugning the order dated 25.05.2023 passed by learned ASJ, Patiala House Courts, New Delhi in Crl. Appeal No.207/2022 titled as 'Ruby Gautam & Ors. v. Shiv Ram Singh &



Anr.’

2. Since both the petitions have been filed against the same order, wherein challenge has been raised on the aspect of grant of interim maintenance, both the petitions are taken up together and disposed of vide this common order.

3. The proceedings arise out of the complaint case filed by *Ms. Ruby Gautam* and two minor daughters against respondents/*Dr. Shiv Ram Singh* and his mother under section 12 of The Protection of Women from Domestic Violence Act, 2005 (hereinafter referred as ‘*DV Act*’) for grant of maintenance.

4. Pertinently, the learned MM vide order dated 04.11.2022 disposed of an application for interim relief filed under Section 23 of the DV Act and granted interim maintenance to each of the minor daughters @ Rs.20,000/- per month.

5. *Ms. Ruby Gautam*, a practicing advocate and income tax payee, was not granted any maintenance at that stage. *Ms. Ruby Gautam* and the two minor daughters preferred an appeal against the said order. In the said appeal, the impugned order came to be passed whereby the interim maintenance was increased from Rs.20,000/- each to Rs.30,000/- each to the two minor daughters. Notably, *Dr. Shiv Ram Singh* did not file any appeal against the order of interim maintenance passed by the learned MM.

6. In the present proceedings, while *Dr. Shiv Ram Singh* assails the order in appeal and seeks restoration of the order passed by the learned MM whereas *Ms. Ruby Gautam* and the minor daughters seek further enhancement and pray that the interim maintenance be increased to Rs.50,000/- each in favour of two minor daughters.



7. The admitted facts are that Dr. Shiv Ram Singh and Ms. Ruby Gautam got married to each other on 04.12.2011 as per the Hindu customs and rites in Delhi. The marriage was also registered in the office of Additional District Magistrate, District-South Delhi, M.B. Road, Saket, New Delhi on 23.02.2012. Two girl children were born out of the wedlock. In the year 2020, *Ms. Ruby Gautam* preferred an application under Section 12 of DV Act and amongst other, monetary relief was sought for maintenance of the two minor girl children, who were living with her. Both the parties filed their income tax records and income affidavit. The Sessions Court, while passing the impugned order, took into account the fact that *Dr. Shiv Ram Singh* was a doctor, who was also employed as head of the department of Ophthalmology in ESIC Hospital. His salary slip for the month of October, 2022 indicated his monthly salary as Rs.2,04,465/-. The admitted school expenses of both the children were around Rs.46,873/- per month. In the impugned order, learned Sessions Court noted that the aforesaid salary slip was not taken into account by the learned MM, while awarding interim relief.

8. Having gone through ITRs as well as pay slip placed on record by both the parties, this Court notes that while *Dr. Shiv Ram Singh* in his ITR for the assessment year 2019-20 disclosed gross salary of Rs.34,41,141/-, the net salary was shown as Rs.34,23,141/-. After deductions, the total income was shown as Rs.27,16,230/-. For the assessment year 2020-21, Dr Shiv Ram Singh has shown his gross income as Rs.30,45,326/- with net salary as Rs.29,85,126/-. The tax liability is indicated as Rs.5,37,642/-. *Dr. Shiv Ram Singh* has claimed that he has dependent mother as well as a daughter from the previous marriage. The impugned order notes that *Ms.*



Ruby Gautam has declared her income to be Rs.52,000/- per month. To consider the grant of interim maintenance, if the net income of both the parties is taken up together and put in a common kitty, the same adds up to a total of Rs.2,56,465/-. Granting two shares each to *Dr. Shiv Ram Singh* and *Ms. Ruby Gautam* and dividing the remaining between the dependents, the interim maintenance of Rs.30,000/- each granted to the two minor daughters, appears to be just and proper. Although both the sides have contended that the other side has not disclosed their exact income however, the same remains a matter of trial.

9. During the course of the submissions, learned counsel for *Dr. Shiv Ram Singh* states that he does not press his challenge to the impugned order however, contends that the same ought not to have been made applicable from the date of application as his income was less in the year 2020 as compared to October, 2022, and that the latter income has been taken into account by the learned Sessions Court. In this regard, learned counsel has also placed reliance on the pay slip of November, 2020, which shows a lesser amount of net income.

10. Learned Senior Counsel for *Ms. Ruby Gautam* has disputed the amount of net salary as reflected in the aforesaid pay slip of November 2020, by contending that *Dr. Shiv Ram Singh* has voluntarily paid excess income tax to artificially bring down his net salary.

11. At this stage, without going into the merits of these contentions, this Court notes that the learned Sessions Court has taken into account the relevant available documents especially the income tax records which shows the net income for the relevant years and thus, as noted above, the interim maintenance of Rs.30,000/- each granted to the two minor daughters from



the date of application does not call for any interference. However, if the parties are able to bring any contrary evidence on record in the trial, the trial court would be at liberty to grant adjustments, in case it reaches on a conclusion for any higher/lesser amount of maintenance.

12. With the above observations, both the petitions are disposed of alongwith the pending applications.

MANOJ KUMAR OHRI
(JUDGE)

MARCH 07, 2024

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