



2024:DHC:5494



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

Date of decision: 23rd JULY, 2024

IN THE MATTER OF:

+ **CRL.REV.P. 712/2024**

PRADEEP KUMAR

.....Petitioner

Through: Ms. Sunaina Valecha, Mr. Jayant
Tewari, Ms. Mehroon Nisha, Mr.
Anshum Sharma and Ms. Supriya
Harsha, Advocates.

versus

X

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court challenging an Order dated 06.03.2024 passed by the learned Additional Sessions Judge-05, Dwarka Courts, Delhi in Criminal Appeal No.423/2022.
2. The learned Additional Session Judge by the impugned judgment has upheld the Order dated 27.09.2022 passed learned Metropolitan Magistrate, Mahila Court which has not been produced by the Petitioner.
3. Material on record indicates that the learned Metropolitan Magistrate *vide* Order dated 13.02.2019, though has declined to grant any monthly maintenance to the Complainant but has restrained the Petitioner herein from dispossessing the Respondent from the premises bearing No. K-3/198, Mohan Garden, New Delhi and has also restrained the Petitioner from communicating with the Respondent in any manner except during



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Counselling or during the mediation proceedings. Material on record indicates that later a sum of Rs.3,000/- per month as interim maintenance was directed to be paid by the Petitioner to the Complainant.

4. Material on record discloses that the Respondent filed a complaint under the Protection of Women from Domestic Violence Act, 2005 (*hereinafter referred to as the 'Domestic Violence Act'*). In the said complaint, the Respondent has stated that she was married to the Petitioner on 20.02.2017 according to the Hindu Rites and Ceremonies at Balaji Vaishno Mandir, Dal Mill Road, Mohan Garden, New Delhi. It is stated that the marriage took place in the presence of the Petitioner's mother, his sisters and brother-in-law, i.e., the husband of his sister, who have been arraigned as Respondents No.2 to 5 in the said complaint.

5. It is stated that the family of the complainant was against the marriage with the Petitioner herein but because of the assurances given by the Petitioner herein, the marriage took place. It is stated that after the solemnization of marriage, the Respondent was brought to the matrimonial house, i.e., H. No.132, Mohan Garden, New Delhi to live together as husband and wife and the marriage was consummated. It is stated that after about 20 days of marriage, the Petitioner tortured the Complainant. It is stated that the Petitioner took the complainant to another house bearing H. No. K-3/198, Mohan Garden, New Delhi.

6. It is stated that on 12.04.2017, i.e., after less than two months in the marriage, the Petitioner wanted to throw the Respondent/complainant from the matrimonial home. Various instances of harassment committed by the Petitioner herein have been stated by the Respondent/Complainant in the complaint filed under the Domestic Violence Act. The Respondent has



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claimed maintenance and has also prayed for a direction restraining the Petitioner herein from dispossessing her from House No.K-3/198, Mohan Garden, New Delhi.

7. It is the case of the Petitioner before this Court that he is happily married with one Priya and the Respondent herself asked for a favour from the Petitioner since her matrimonial life with her husband Gursharan Singh was not going well and to show to her relatives that she is happy in her married life, she requested the Petitioner to click the photographs. It is stated that the Petitioner provided accommodation bearing No.K-3/198, Mohan Garden, New Delhi to the Respondent for a few days since she was facing some problems with her husband. It is stated that when the Petitioner asked the Respondent to vacate the house, the Respondent refused to do so stating that she is the legally wedded wife of the Petitioner.

8. It is stated that the Respondent is habitual in blackmailing and cheating people. It is stated the Respondent is in the habit of making friends through social networking sites and that prior to her marriage with Gursharan Singh, she was married to one Harmeet Singh and she had not taken divorce from Harmeet Singh. The Petitioner, therefore, states that the Respondent is not entitled to any interim maintenance.

9. Though it has been stated in the index filed with the petition that Order dated 27.09.2022 has been filed but the same has not been filed and what has been annexed with the instant petition is an Order dated 13.02.2019 passed by the learned Metropolitan Magistrate.

10. The Order dated 27.09.2022 passed by the learned Metropolitan Magistrate was challenged by the Petitioner before the learned Additional Sessions Judge which has been rejected *vide* Order dated 06.03.2024 and the



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Petitioner has approached this Court challenging Order dated 06.03.2024 by filing the instant petition.

11. The Appellate Court by the order impugned herein has refused to interfere with the interim maintenance of Rs.3,000/- granted to the Respondent and has also refused to interfere with the order restraining the Petitioner herein from dispossessing the Respondent.

12. Heard learned Counsel for the Petitioner and perused the material on record.

13. Learned Counsel for the Petitioner vehemently contended that the Respondent is not his legally wedded wife. He states that the Respondent is in the habit of filing false complaints and cheating people. He states that in the absence of any proof of marriage, the order granting maintenance and the order restraining the Petitioner from evicting the Respondent ought to be set aside.

14. It is the case of the Petitioner that the Respondent had approached the Petitioner to click photographs as husband and wife and the Petitioner agreed for the same. He also states that the Respondent requested the Petitioner to permit her to live in his house for some time since her matrimonial with Gursharan Singh was not going well. Proceedings against the Petitioner are going on under the Domestic Violence Act.

15. Material on record indicates that there is *prima facie* material to show that the Petitioner and the Respondent are in a relationship in the nature of marriage, and therefore, *prima facie* it shows the Petitioner and the Respondent are in a domestic relationship in the nature of marriage.

16. This Court is not scrutinizing the evidence and going into excruciating details lest it should prejudice the case of both sides. The deposition of the



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Respondent and the mother of the Respondent which has been placed on record shows that there are photographs wherein the Petitioner and the Respondent are seen in marital attire and the Respondent is wearing a *Chura* in her hand and some ceremony has taken place in the Arya Samaj Mandir. It is also inconceivable that why a person would take a photograph in an attire which would resemble as if they are married, just for the asking.

17. It is yet to be proved that the Petitioner is married to any other person which can have the effect of denying the benefit of the Domestic Violence Act to the Respondent. Even though the Order of the Trial Court shows that the Petitioner has made a statement that he is married, however, in the present Petition there is no averment by the Petitioner that he is married which would have the effect of denying the protection of the DV Act to the Respondent herein. Two courts below during the interim stage have accepted the case of the Respondent that there is a relationship in the nature of marriage, however, it is subject to the evidence and the final outcome.

18. The allegations that the Respondent is habitual in making such false allegations and cheating people would be a consideration which would be taken by the trial court in the proceedings under the Domestic Violence Act. While exercising its revisional jurisdiction in the absence of any material which would show that the orders of the two courts below are completely perverse, this Court is not inclined to interfere with the direction to the Petitioner to pay interim maintenance for the sum of Rs.3,000/- and a direction not to dispossess the Respondent during the pendency of the proceedings.

19. It is made clear that the Trial Court will take its own decision depending upon the weight of the evidence adduced before it while



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adjudicating the application under the Domestic Violence Act and the observations made by this Court are only limited to the issue as to whether this Court should interfere with the findings of the courts below regarding the interim maintenance and the order restraining the Petitioner herein from dispossessing the Respondent from the matrimonial house.

20. In view of the above, the revision petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JULY 23, 2024

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