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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decision delivered on: 28.05.2024

+ **MAT.APP.(F.C.) 180/2024 & CM Nos.32316-18/2024**

NIRMAAN MALHOTRA Appellant
Through: Mr Prateek Goswami, Adv.

versus

TUSHITA KAUL 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 No.32318/2024

1. Allowed, subject to just exceptions.

CM No.32317/2024*[Application filed on behalf of the appellant seeking condonation of delay of 6 days in filing the appeal]*

2. This is an application filed on behalf of the appellant seeking condonation of delay in filing the appeal.

2.1 According to the appellant, there is a delay of 6 days.

3. Having regard to the period involved, we are inclined to condone the delay.

3.1 It is ordered accordingly.



4. The application is, accordingly, disposed of.

MAT.APP.(F.C.) 180/2024&CM No.32316/2024*[Application filed on behalf of the appellant seeking interim relief]*

5. This appeal is directed against the judgment and order dated 15.04.2024, whereby the application filed by the respondent/wife under Section 24 of the Hindu Marriage Act, 1955 [in short, "HMA"] was disposed of.

6. *Via* the impugned judgment, the Family Court has directed the appellant/husband to pay Rs.75,000/- per month to the respondent/wife, commencing from the date of the application, with yearly increase in maintenance at the rate of 7%, effective from 01.04.2025.

6.1 The aforementioned cumulative maintenance sum awarded by the Family Court was both for the respondent/wife and the girl child.

7. The record shows that the couple entered into matrimony on 06.02.2018.

7.1 The record also discloses that from the wedlock, the couple have a girl child, who is about five years old.

8. The Family Court, after looking at the status of the couple and examining the material on record, has concluded the defence taken by the appellant/husband that he earns Rs.40,000/- to Rs.41,000/- per month did not commensurate with the transactions reflected in his bank account.

9. It is not disputed by the learned counsel for the appellant/husband that the appellant/husband is a professional architect and has set up his own company for rendering professional services.

9.1 Paragraphs 9 to 11 of the impugned judgment broadly indicate the income that the appellant/husband has been earning. For the sake of brevity, the said



paragraphs are not reproduced herein. Suffice it to say that a similar analysis was carried out by the Family Court *vis-à-vis* the respondent/wife as well.

10. To be noted, the respondent/wife is a post-graduate in Mass Communication. A finding of fact has been returned that after separation, she has been living with her parents and is not employed.

11. The respondent/wife had asked for a cumulative monthly maintenance of Rs.2,00,000/- per month, which has been pared-down, as indicated above, to Rs.75,000/- per month.

12. We may also note that the learned counsel for the appellant/husband has submitted that the respondent/wife is living in adultery.

12.1 In this regard, our attention has been drawn to certain photographs which are appended to the appeal.

12.2 On being queried, as to whether in the reply, which was filed to the application filed by the respondent/wife under Section 24 of the HMA, this averment was made, the learned counsel for the appellant/husband fairly conceded that there was no mention of this aspect in the reply.

13. We have looked at the photographs. It is not clear as to whether the respondent/wife is the person in the photographs, as alluded to by the learned counsel for the appellant/husband.

13.1 We may take judicial notice of the fact that we are living in the era of deepfakes and, therefore, this is an aspect that the appellant/husband, perhaps, would have to prove by way of evidence before the Family Court.

14. Since the petition instituted for divorce by the appellant/husband is pending adjudication, if this issue is pressed, the court may give opportunity to



the parties to place their evidence on record in support of their respective cases.

15. Notably, this aspect, which is vehemently pressed before us, almost as a measure of desperation to wriggle out of the obligation cast in the impugned judgment, finds no mention in the impugned judgment.

15.1 The learned counsel for the appellant/husband says that this aspect was raised before the Family Court, however, it was ignored while rendering the judgment.

15.2 If this was the situation, the best course open to the appellant/husband was to move an application for review before the Family Court. However, no such measure has been taken recourse to by the appellant/husband.

16. We find no merit in the appeal. The appeal is, accordingly, dismissed.

17. Consequently, the pending application shall stand closed.

18. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MAY 28, 2024

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