



2024:DHC:5456



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

Date of decision: 16th JULY, 2024

IN THE MATTER OF:

+ **CRL.REV.P. 581/2022 & CRL.M.A. 17995/2022, CRL.M.A. 17997/2022, CRL.M.A. 11589/2023 & CRL.M.A. 11590/2023**

MUKESH KUMAR

.....Petitioner

Through: Mr. Mritunjay Kr. Singh, Mr.Saikat Khatna, Mr.Rakesh Kumar, Mr.Sahil Chaitanya Ms.Akshita Tyagi, Advs.

versus

NEELAM

.....Respondent

Through: Ms.Gayatri Nandwani, Ms.Mudita Sharda, Mr.Adrian Abbi, Advs.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. The Petitioner has approached this Court challenging an Order dated 06.07.2022 passed by the learned Principal Judge, Family Court, Saket whereby the Petitioner has been directed to pay a sum of Rs.20,000/- per month as maintenance to the Respondent. The order impugned herein has been passed while deciding an application filed under Section 125 CrPC.
2. The facts disclose that the marriage between the Petitioner and Respondent was solemnized as per the Hindu Rites and Ceremonies on 29.01.2007 at New Delhi.



3. It is stated that out of the wedlock, there are two children, a son and a daughter. The daughter was born on 03.03.2008 and the son was born on 22.04.2011. As on date, the daughter is about 16 years of age and the son is about 13 years of age.
4. Material on record discloses that disputes have arisen between the husband and wife and since the Respondent was not in a position to maintain herself, she filed a petition under Section 125 CrPC being M. No.38/2021 seeking interim maintenance for herself and her two children.
5. By the order impugned herein, the Trial Court came to a conclusion that the Petitioner is an LIC agent and his income cannot be less than Rs.40,000/- per month and fixed maintenance @ Rs.20,000/- per month for the Respondent herein and the two children. It is this order which has been challenged by the Petitioner/husband by filing the present revision petition.
6. It is the case of the Petitioner that the Petitioner is an LIC agent. Attention of this Court has been drawn to the Income Tax Returns filed by the Petitioner. Attention of this Court has also been drawn to the documents filed by the Respondent to contend that the Petitioner/husband is not earning more than Rs.20,000/-per month and therefore the Petitioner is not in a position to pay a sum of Rs.20,000/- per month to the Respondent/wife.
7. Attention of this Court has also been drawn to the fact that the Petitioner has a widow mother to maintain and that with their income of about Rs.20,000/-, the Petitioner would not be able to take care of his widow mother if an amount of Rs.20,000/- is directed to be paid to the Respondent as no money would be left with the Petitioner. He also states that the Respondent/wife is also doing some tailoring business and is also in a position to earn money for herself would be able to earn sufficient money to



maintain herself.

8. *Per contra*, learned Counsel for the Respondent contends that the order impugned herein does not require any interference. She has taken this Court to the summary of premium and commission documents which indicates that the income of the Petitioner is not less than over Rs.60,000/- per month. Attention has also been drawn to the various agency commission summary slips to state that in every quarter, the Petitioner is getting about Rs.27,000/- every 15 days, meaning thereby, he is getting more than Rs.50,000/- per month.

9. Heard learned Counsel for the parties and perused the material on record.

10. The Petitioner has given an income affidavit which has been disputed. The Apex Court in Rajneesh v. Neha, **2021 (2) SCC 324**, has held that while deciding interim maintenance, some amount of guesswork or rough estimate takes place so as to make a *prima facie* assessment of the amount to be awarded. The Apex Court has held that both parties submit scanty material, do not disclose the correct details and suppress vital information which makes difficult for the family courts to make an objective assessment for grant of interim maintenance. It was observed that while there is a tendency on the part of the wife to exaggerate her needs and there is a corresponding tendency on the part of the husband to conceal his actual income.

11. In the present case, it is the case of the Petitioner/husband that he is an LIC agent. Respondent/wife in her affidavit had filed agency commission summary slips of the Petitioner. A perusal of the said agency commission summary slips does indicate that the assessment made by the learned Trial Court that the Petitioner would be earning about Rs.40,000/- per month is



correct rather the material shows that he earns more than Rs.40,000/-. Apart from being an LIC agent, he is also giving tuitions to children and this Court can take judicial notice of the fact that in majority of the cases, money is paid in cash which is not reflected in Income Tax Returns.

12. It is well settled that the object of the maintenance proceedings is to prevent vagrancy and destitution of a wife by providing food, clothing and shelter by a speedy remedy and Section 125 CrPC as a measure of social justice enacted to protect women and children. [Refer to:- Chaturbhuj v. Sita Bai, **2008 (3) SCC 316.**]

13. It is well settled that Section 125 CrPC was conceived to ameliorate the agony, anguish and financial suffering of a women who left her matrimonial home, for the reasons provided in the provision so that some suitable arrangement is made by the court so that she can sustain herself and her children if they are with her. It is the sacrosanct duty of the husband to provide financial support to the wife and minor children. [Refer to:- Bhuwan Mohan Singh v. Meena & Ors., **2015 (6) SCC 353**]

14. Keeping in mind the object of Section 125 CrPC and keeping in mind the Respondent is maintained, who has two children who are aged 16 and 13, this Court is of the view that Rs.20,000/- should be the bare minimum amount for the Respondent to maintain herself and her two children whose needs would be growing year after year.

15. It is stated by learned Counsel for the Petitioner, on instructions, that about 2 or 3 witnesses have to be examined from the side of the Petitioner. Similarly, learned Counsel for the Respondent also submit that 2 or 3 witnesses have to be examined from the side of the Respondent. The learned Trial Court is requested to complete the examination and decide the matter



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as expeditiously as possible, preferably within a period of one year from today.

16. In view of the above, this Court does not find any reason to interfere with the order impugned in the instant revision petition.

17. The petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JULY 16, 2024

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