



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

+ CRL.REV.P. 916/2023

POOJA GOYAL & ANR.

.....Petitioners

Through: Ms. Sakshi Arora, Ms.
Divya Mangla & Mr.
Sarathak Sharma, Advs.

versus

NAVEEN GOYAL

.....Respondent

Through: Mr. Himanshu Matta,
Adv.

+ CRL.REV.P. 1045/2023 & CRL.M.A. 26947/2023

NAVEEN GOYAL

.....Petitioner

Through: Mr. Himanshu Matta,
Adv.

versus

POOJA GOYAL

.....Respondent

Through: Ms. Sakshi Arora, Ms.
Divya Mangla, Mr.
Arhant Saini & Mr.
Sarathak Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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20.08.2024

1. The present petitions are filed against the order dated 25.02.2023 (hereafter '**impugned order**') passed by the learned Principal Judge, Family Court, Karkardooma Courts in MT No. 433/2019 titled *Pooja Goyal & Anr. v. Naveen Goyal*.
2. By impugned order, the learned Family Court assessed the monthly income of the respondent / husband to be ₹50,000/- per month, and directed the respondent to pay an interim maintenance of ₹15,000/- per month (₹5,000/- per month to Petitioner No. 1, and ₹10,000 per month to Petitioner No. 2)



from the date of filing of the application, and during the pendency of the case.

3. The petitioners *vide* CRL. REV. P. 916/2023 seek an enhancement of interim maintenance. The respondent in the aforesaid petition is the petitioner in CRL. REV. P. 1045/2023, and seeks setting aside of the impugned order awarding interim maintenance to the tune of ₹15,000/- per month.

4. The learned counsel for Petitioner Nos. 1-2 submits that the learned Family Court has erred in awarding an interim maintenance for a sum of ₹15,000/- per month. She submits that the said maintenance does not take into account the fact that Petitioner No. 1 is not earning and also has to maintain her minor child, that is, Petitioner No. 2.

5. She submits that the learned Family Court has not correctly assessed the income of the respondent, and his living standard. She further submits that the purpose of maintenance is to prevent vagrancy of the wife. She submits that Petitioner No. 2 is suffering from dyslexia/Dyscalculia, and requires a special educator, and seeks enhancement of the interim maintenance.

6. She submits that the respondent is running a wholesale business of electrical items, and is earning more than ₹3,00,000/- per month, whereas Petitioner No. 1 is not gainfully employed anywhere, and is completely dependent on her parents.

7. *Per contra*, the learned counsel for the respondent submits that the learned Family Court has incorrectly and mechanically assessed the net income of the respondent to be ₹50,000/- per month. He submits that the learned Family Court failed to take into account the income affidavit of the respondent. He submits that the learned Family Court, despite making an observation that Petitioner No. 1 had concealed her income, passed an order granting interim maintenance.



8. He submits that Petitioner No. 1 is more ~~qualified~~, and has her own independent source of income. He submits that the respondent is merely earning ₹15,000-17,000/-, and he is already paying ₹5,000/- per month as interim maintenance to the petitioners under the Domestic Violence Act. Consequently, he submits that the payment of interim maintenance to the tune of ₹15,000 to the petitioners is not feasible.

9. Concededly, the impugned order is only an order in regard to the award of interim maintenance. The learned Trial Court noted that Petitioner No. 1 had not disclosed that she is not earning presently, and had rather only filled 'N/A' in all the headings under column 'I' titled 'Self-Employed Persons/ Professionals/ Business Persons/ Entrepreneur' of her income affidavit. It was also noted that Petitioner No. 1 had herself disclosed that she had started a boutique, however had failed to disclose whether the same was still in operation or not. It was also noted that the respondent had filed certain documents to show that Petitioner No. 1 was still running the boutique in the name of 'Aggarwal Creations.' The learned Trial Court also took into account the bank statements of Petitioner No. 1, and observed that she had been regularly receiving payments.

10. As regards the respondent, the learned Trial Court observed that contrary to the respondent's stance that he had only been earning a sum of ₹17,000/- per month, he had regularly been depositing a considerable amount in his bank account, which sometimes also soared to lakhs of rupees. The learned Trial Court observed that the respondent is running a wholesale and retail trade of electrical items, and given the bank transactions, his income would indubitably be more than ₹17,000/-. Consequently, the learned Trial Court assessed the monthly income of the respondent to be more than ₹50,000/- per



month. For this reason, the learned Trial Court, taking into consideration that both parties had concealed their true income, and in view of the medical condition of Petitioner No. 2, awarded an interim maintenance to the tune of ₹15,000/- (₹5,000/- to Petitioner No. 1, and ₹10,000/- per month to Petitioner No.2)

11. It is common knowledge and has been observed by this Court in many cases that it is a normal tendency of the parties, especially in matrimonial disputes not to disclose their true income. The Courts in such circumstances are permitted to make some guess work and arrive at a figure that a party may reasonably be earning. [Ref: ***Bharat Hegde v. Saroj Hegde* : 2007 SCC OnLine Del 622**]

12. It is trite law that a husband cannot shirk his sacrosanct duty to financially support his wife. The Hon'ble Apex Court, in the case of ***Shamima Farooqui v. Shahid Khan* : (2015) 5 SCC 705**, observed as under:

*“14. It can never be forgotten that the inherent and fundamental principle behind Section 125 CrPC is for amelioration of the financial state of affairs as well as mental agony and anguish that a woman suffers when she is compelled to leave her matrimonial home. The statute commands that there have to be some acceptable arrangements so that she can sustain herself. **The principle of sustenance gets more heightened when the children are with her.** Be it clarified that sustenance does not mean and can never allow to mean a mere survival. A woman, who is constrained to leave the marital home, should not be allowed to feel that she has fallen from grace and move hither and thither arranging for sustenance. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of her husband. And that is where the status and strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one. As long as the wife is held entitled to grant of maintenance within the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity as she would have lived in her matrimonial home. She cannot be compelled to become a destitute or a beggar. There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite having*



sufficient means neglects to maintain her. Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law. If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right."

(emphasis supplied)

13. Considering the facts as noted by the learned Trial Court, this Court is of the opinion that the interim maintenance of 15,000/- per month is a reasonable amount. In any event, as observed by the Hon'ble Apex Court in *Shamima Farooqui v. Shahid Khan (supra)*, the right of the wife to receive maintenance under Section 125 of the CrPC, unless disqualified, is absolute. Therefore, it is incumbent on the respondent, who is an able-bodied man to financially support his wife and child.

14. It is not disputed that the impugned order is only an order of interim maintenance. The defences raised by the petitioners, along with the allegations and counter allegations, would be the subject matter of the trial, and would have to be decided after the parties have led their evidence.

15. The learned Trial Court is directed that the final order be passed in the case uninfluenced by the findings made in the impugned order or this order.

16. In view of the above, this Court finds no reason to interfere with the impugned order, and the petitions are dismissed in the aforesaid terms.

17. A copy of the order be placed in both the matters.

AMIT MAHAJAN, J

AUGUST 20, 2024