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

+ **CRL.REV.P. 832/2024, CRL.M.A. 19247/2024 & CRL.M.A. 19248/2024**

SH. ANKIT KUMARPetitioner
Through: Mr. Rahul Thakur & Mr.
Suraj Baghel, Advocates.

Versus

MS. SONAMRespondent

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **05.07.2024**

1. The present petition is filed under Section 397/401 of the Code of Criminal Procedure, 1973 ('CrPC'), challenging the order dated 29.04.2024, passed by the learned Judge Family Courts, South District, Saket Court, Delhi in MT. No.402/2023 (hereafter '**the impugned order**').
2. The learned Family Court, by impugned order, has directed the petitioner to pay an *ad interim* maintenance of ₹6,000/- per month to the respondent wife till the disposal of the application of interim maintenance.
3. Admittedly, the proceedings are pending before the learned Family Judge for arguments on interim maintenance.
4. Even otherwise sum of ₹6,000/- per month, to petitioner's own wife, is not unreasonable. It is not denied that the petitioner is an able-bodied man. The Hon'ble Apex Court, in the case of **Anju Garg and Anr. v. Deepak Kumar Garg : 2022 SCC Online SC 1314**, observed as under:

"10.... The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor



children. **The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute...**

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13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no source of income as his party business has now been closed, the Court is neither impressed by nor is ready to accept such submissions. **The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child....**

(emphasis supplied)

5. Clearly the impugned order is an interlocutory order by which the learned Family Judge has only fixed an *ad interim* maintenance. It is not in dispute that the application for relief of interim maintenance is still pending consideration before the learned Family Court. A petition under Section 397 of the CrPC, challenging an interlocutory order is not maintainable.
6. The petitioner is at liberty to challenge the order deciding interim maintenance that would be passed by the learned Family Judge after considering the material placed on record.
7. The petition is dismissed with the aforesaid observations.

AMIT MAHAJAN, J

JULY 5, 2024

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