



2024:DHC:7254



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on:20.09.2024

+ **CRL.REV.P. 1015/2023, CRL.M.A. 26104/2023 &
CRL.M.A. 26105/2023**

SHUKLA CHAKRABORTY

..... Petitioner

versus

SNEHANSHU DAS PANDIT

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. S.K. Bhaduri, Ms. Snehlata Jha & Ms. Shreyangana Bag, Advs. with petitioner in person

For the Respondent : Mr. Jai Sharma & Mr. Ravi Kant Rai, Advs.

**CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present petition is filed seeking modification of the order dated 14.08.2023 (hereafter 'the impugned order') passed by the learned Judge, Family Court, Karkardooma Courts, Delhi in Mt No. 143/2019 titled *Shukla Chakraborty v. Snehanshu Das Pandit*, so far as it relates to the reduction of maintenance to ₹12,000/- per month. The petitioner further seeks setting aside of the impugned order to the

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extent the show cause notice has been issued to the petitioner to explain why action Sections 191/193/199/209 of the Indian Penal Code, 1860 ('**IPC**') read with Section 340 of the Code of Criminal Procedure, 1973 ('**CrPC**') be not taken against her.

2. Briefly stated, the petitioner, Shukla Chakraborty, and the respondent, Snehanishu Das Pandit, got married on 04.12.2016. The petitioner alleged that after a few months of marital harmony, the relationship began to deteriorate when the respondent's daughter from his previous marriage, Shreya, came to live with them. The petitioner claims that both the respondent and his daughter subjected her to mental and physical harassment, including coercing her into aborting a pregnancy.

3. In light of these circumstances, the petitioner filed a complaint under Section 125 of the CrPC seeking maintenance. The learned Family Court, by the impugned order, granted maintenance of ₹12,000/- per month to the petitioner and issued a show-cause notice under Sections 191/193/199/209 of the IPC, accusing her of making false statements.

4. The learned Family Court awarded the maintenance of ₹12,000 per month to the petitioner, Shukla Chakraborty, after carefully considering the financial circumstances of both parties, the petitioner's financial status, respondent's financial capacity, standard of living, and equitable division, aiming to provide adequate support to the petitioner while also being mindful of the respondent's obligations.



5. The learned counsel for the petitioner submitted that the maintenance awarded was grossly inadequate, as the learned Family Court did not consider the fact of her unemployment and the respondent's higher financial capacity. She also contended that the show-cause notice was issued without sufficient grounds and was based on fabricated evidence provided by the respondent.

6. He submitted that the alleged discrepancies in the petitioner's statements were either misinterpretations or minor inconsistencies that did not warrant such severe action. The petitioner had no intention of misleading the court, and the notice was issued without adequate grounds or due consideration of the context in which the statements were made.

7. He submitted that the petitioner had lost her job during the pendency of the proceedings and had been unable to find suitable employment since then. Given this financial hardship, the petitioner's counsel argued that the maintenance amount should be revised upward to reflect her current financial needs and the respondent's ability to pay. The counsel emphasized that the petitioner's financial dependence on the respondent was exacerbated by the fact that she had no other means of support.

8. He submitted that this Court, by order dated 03.06.2022, upon reviewing the affidavit submitted by the petitioner detailing her employment status and the respondent's salary slip, which indicated an average monthly salary exceeding ₹75,000/-, increased the interim maintenance to ₹20,000/- per month for the petitioner. Subsequently,



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by order dated 23.02.2023, this Court, taking into account the respondent's salary increase, further raised the interim maintenance to ₹25,000/- per month to be paid to the petitioner.

9. The learned counsel for the respondent submitted that the maintenance amount was fair and sufficient, given his financial obligations and capacity. He supported the issuance of the show-cause notice, asserting that it was justified due to the false statements made by the petitioner.

10. The present case involves the challenge to the maintenance awarded to the petitioner, Shukla Chakraborty, and the issuance of a show-cause notice under Sections 191, 193, 199, and 209 of the IPC. The petitioner has questioned the sufficiency of the maintenance and the justification for the show-cause notice.

11. Section 125 of the Code of Criminal Procedure, 1973 (**CrPC**) is a provision designed to provide a quick remedy to those who are unable to maintain themselves. The primary objective of this section is to prevent vagrancy and destitution by ensuring that those who are dependent on another for their subsistence, such as a wife, children, or parents, receive financial support when they are unable to maintain themselves. The Supreme Court in **Chaturbhuj v. Sita Bai : (2008) 2 SCC 316** emphasized that the object of maintenance proceedings is not to punish a person for past neglect but to ensure that those entitled to support are not left in distress. This provision embodies the social responsibility and moral duty to maintain one's dependents.



12. In the present case, the learned Family Court determined that the respondent's net monthly income was ₹75,000/-, which was to be divided into four shares in accordance with the principles laid down in ***Annurita Vohra v. Sandeep Vohra : 2004 (74) DRJ 99***. The petitioner's share was calculated to be approximately ₹18,000/-. However, the learned Family Court, upon noting the concealment of the petitioner's actual earnings and assets (permanent alimony from her first husband, FDR, concealment of the latest bank statement), exercised its discretion to limit her maintenance to ₹12,000/- per month. This determination was made after a careful evaluation of the financial circumstances of both parties, balancing the petitioner's financial needs against the respondent's ability to pay, with the objective of providing adequate support to maintain the petitioner's standard of living.

13. This Court in the case of ***Annurita Vohra v. Sandeep Vohra*** (*supra*) had observed that the court should initially determine the net disposable income of the Husband or the primary earner within the family. If the other spouse is also employed, those earnings should be taken into consideration. This collective income forms the Family Resource Cake, which is then distributed among the family members. The allocation of this "cake" should align with the financial needs of each family member, and an equitable approach would involve dividing the Family Resource Cake into two portions for the Husband, acknowledging his additional expenses incurred in earning, and one portion each for the other members.



14. It is not denied that the net monthly salary of the respondent is ₹75,000/-, and the share of the petitioner comes to be approximately ₹18,000/- per month. The learned Family Court, however, observed that the petitioner had failed to fully disclose her actual income as well as assets, due to which monthly maintenance was restricted to ₹12,000/-. Thus, the petitioner had certain financial means which were not disclosed before the learned Family Court. In such circumstances, granting maintenance of ₹12,000/- per month is just and reasonable.

15. The learned Family Court further asserted the respondent's financial obligations, including his responsibility towards his daughter from a previous marriage. The Hon'ble Apex Court in ***Bhagwan Dutt v. Kamla Devi : (1975) 2 SCC 386***, held that maintenance should allow the wife to live in a manner consistent with the status she enjoyed while living with her husband, neither luxurious nor penurious.

16. Another question before this Court is whether the learned Family Court erred by initiating the proceedings against the petitioner under Section 340 of the CrPC.

17. Section 340 of the CrPC provides for an inquiry and filing of a complaint in case the party is found to have committed offences referred to in Section 195(1)(b) of the CrPC, which relates to the filing of false evidence in any judicial proceedings. Section 340 of the CrPC reads as under:

“340. Procedure in cases mentioned in section 195.—(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of Justice



that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence 152 in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,—

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed—

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.

(4) In this section, “Court” has the same meaning as in section 195.”

18. It is the case of the respondent that the petitioner had submitted a false affidavit of income and assets before the Trial Court concealing material facts and she ought to be prosecuted for perjury.

19. It is not in doubt that in case the wife is found to have committed an offence as defined under Section 195 of the IPC, an appropriate inquiry can be ordered under Section 340 of the CrPC. However, it is not necessary that in every case the Court has to order an inquiry under Section 340 of the CrPC. It is a settled law that the



Court may refrain from passing any order in regard to filing of false evidence if it is not expedient in the interest of justice.

20. The Hon'ble Apex Court in the case of ***Iqbal Singh Marwah v. Meenakshi Marwah*** (*supra*), held that the Court is not bound to make a complaint in every case unless the same is expedient in the interest of justice. It was also noted in the said case that the question as to whether it is expedient in the interest of justice to make a complaint is to be tested by the concerned Court by not only weighing the magnitude of impact of injury suffered by the person who would have been made to suffer by such a document, but also by seeing the impact the same had on the administration of justice.

21. Further, the Hon'ble Apex Court in the case of ***Santokh Singh v. Izhar Hussain : AIR 1973 SC 2190***, held that the Court should exercise judicial discretion only in cases where there was evident deliberate falsehood and order prosecution in the larger interest of justice rather than to gratify the feeling of vindictiveness between the parties.

22. 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 to not 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***).

23. Routine abuse of power under Section 340 of the CrPC to harass the other side and settle scores cannot be allowed. Litigants



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cannot be allowed to make a mockery of the judicial process to gratify their feelings of animosity by exacting revenge against the other side and prosecution should be initiated only in glaring cases of falsehood and the same cannot be abused as an instrument to satisfy the feeling of personal revenge.

24. The propensity of parties embroiled in matrimonial disputes seeking proceedings under Section 340 of the CrPC on mere surmises and suspicion with a revengeful desire to harass the other side needs to be discouraged.

25. In light of the foregoing, the show-cause notice issued under Section 340 of the CrPC by the impugned order is hereby set aside. However, this Court finds no grounds to disturb the maintenance awarded to the petitioner by the learned Family Court.

26. The present petition is, therefore, partly allowed in the aforesaid terms.

27. Pending applications also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 20, 2024

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