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

+ **CRL.REV.P. 875/2024 & CRL.M.A. 19968/2024,**
CRL.M.A. 19969/2024

VANDANA AGGARWALPetitioner
Through: Ms. Preeti Singh, Mr.
Sunklan Porwal, Ms.
Shefali Mehezes and Mr.
Yash Singhal, Advs.

versus

PRANAV GOYALRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
11.07.2024

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1. The present petition is filed challenging the order dated 06.04.2024 (hereafter '**impugned order**'), passed by the learned Family Court, Shahdara District, Karkardooma Courts, Delhi in MT No. 278/2020.
2. The learned Family Court, by the impugned order in petition filed by the petitioner under Section 125 of the Code of Criminal Procedure, 1973 (**CrPC**), has awarded an interim maintenance of ₹50,000/- per month from the date of filing of the petition.
3. The learned counsel for the petitioner submits that the petition is essentially filed seeking enhancement of the interim maintenance as awarded by the learned Family Court.
4. She submits that the impugned order has been passed purely on guesswork. She submits that admittedly the respondent has concealed his true income.

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5. She submits that the marriage of the parties took place in a lavish manner and a huge amount of jewellery along with other valuable articles was given to the respondent at the time of marriage.

6. She submits that at the time of their marriage, it was disclosed that the respondent's monthly income exceed ₹2,00,000 and that he additionally derives income from family business ventures.

7. She also faulted the impugned order on the ground that the finding of the learned Family Court in paragraph 7 is contrary to the prevalent law. The relevant paragraph is reproduced herein below:

*“7. It is averment of the petitioner that she was treated with cruelty after marriage while it is assertion of the respondent that it is petitioner who was at fault. However, various allegations and counter allegations cannot be decided at this stage without giving opportunity to the parties to lead evidence. Further in view of the details narrated in the petition, prima facie it appears that she is justified in living separately. **Needless to say that purpose of maintenance is only to prevent the vagrancy and destitution...**”*

8. She apprehends that the finding of the learned Family Court may prejudice the final adjudication of her maintenance petition under Section 125 of the CrPC. She contends that quantum of maintenance should be consistent with the standard of living to which the wife is accustomed to as opposed to mere prevention of destitution. In support of her submission, she placed reliance on Section 20(2) of the Protection of Women from Domestic Violence Act, 2005 which states that:

“The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed”.

9. It is also common knowledge and has been observed by
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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**]

10. The learned Family Court, after duly considering the *prima facie* evidence available, concluded that the respondent may have been earning ₹1,50,000/- to ₹2,00,000/- per month and has awarded interim maintenance to the petitioner for a sum of ₹50,000 per month. The order does not preclude the petitioner to claim enhanced maintenance by producing evidence at the stage of trial, however, in the absence of any compelling evidence or documentary proof substantiating that the husband's earnings exceed the amount assessed by the learned trial court as the basis for determining the interim maintenance, the amount of ₹50,000/- per month, at this stage, is reasonable.

11. It is not disputed that the impugned order is only an order of interim maintenance. The defence raised by the petitioner, 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.

12. The learned Family Court would pass a final order in regard to the maintenance after considering the evidence on record.

13. Insofar as the observation of the learned Family Court in relation to the purpose of maintenance is concerned, this Hon'ble Court places reliance on the judgment passed by Hon'ble Apex Court in ***Bhagwan Dutt v. Kamla Devi* : (1975) 2 SCC 386**. It



was held as under:

“19. The object of these provisions being to prevent vagrancy and destitution, the Magistrate has to find out as to what is required by the wife to maintain a standard of living which is neither luxurious nor penurious but is modestly consistent with the status of the family. The needs and requirements of the wife for such moderate living can be fairly determined, only if her separate income, also, is taken into account together with the earnings of the husband and his commitments.”

14. Further, the coordinate bench of this Hon’ble Court in ***Bharat Hegde v. Saroj Hegde*** (*supra*), has held that the maintenance awarded should aid the applicant to live a similar lifestyle she/he enjoyed in the matrimonial home.

15. 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 or refuses to maintain the wife. 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)

16. In view of the above, it is clarified that while the purpose of maintenance is prevention of vagrancy and destitution, the quantum of maintenance must be modestly consistent with the status of the family and enables the applicant to live a similar lifestyle.

17. The present petition is dismissed in the aforesaid terms.

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

AMIT MAHAJAN, J

JULY 11, 2024

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