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

+ CRL.M.C. 5357/2024

PRIYA BHATIA & ORS.

.....Petitioners

Through: Mr. R.K. Tarun, Ms. Capt. Subedita Rani, Ms. Aditi Shivadhatri, Mr. R.R. Bharti and Ms. Rhidhima Sharma, Advs.

versus

AMIT BHATIA

.....Respondent

Through: Mr. P.V. Dinesh, Sr. Adv. with Mr. Gaurav Gupta, Mr. Rohit Rattu and Mr. Anna Dommen, Advs.

+ CRL.M.C. 6881/2024, CRL.M.A. 26283/2024

AMIT BHATIA

.....Petitioner

Through: Mr. P.V. Dinesh, Sr. Adv. with Mr. Gaurav Gupta, Mr. Rohit Rattu and Mr. Anna Dommen, Advs.

versus

PRIYA BHATIA

.....Respondent

Through: Mr. R.K. Tarun, Ms. Capt. Subedita Rani, Ms. Aditi Shivadhatri, Mr. R.R. Bharti and Ms. Rhidhima Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

18.10.2024

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1. By way of present petitions, the petitioners (wife and minor children) in CRL.M.C. 5357/2024 seek enhancement of interim maintenance awarded to them vide order dated 30.05.2024 passed by the learned Family Court,



Rohini Courts, Delhi in MT. Case No. 30/2017, whereas in CRL.M.C. 6881/2024, the petitioner therein (husband) seeks setting aside of the aforementioned order dated 30.05.2024.

2. Considering that common submissions have been addressed in both the petitions, the same are taken up for consideration together.

3. In the present matter, the learned Family Court has awarded interim maintenance of Rs.48,000/- per month to each of the applicants/wife and 2 minor children vide the impugned order, cumulatively amounting to Rs.1,44,000/- per month.

4. Learned counsel for the applicants/wife and 2 minor children submits that the wife is no longer gainfully employed and the two minor, school-going minor children are in her custody, however, the husband is employed as the General Manager, Revenue & Operations in Pune Satara Toll Road Pvt. Ltd., earning around Rs.2,01,000/- per month. It is further submitted that as per the income affidavit filed by the husband in the maintenance proceedings, he has other sources of income beyond his salary as he is owning several assets in bank locker, immovable properties, cars etc. It is contended that the husband has in fact concealed his actual income before the learned Family Court and that the Court failed to take into account the valuation of his properties as well as his life style/standard of living.

5. Learned Senior Counsel for the husband opposes the prayer for enhancement of interim maintenance and assails the impugned order, submitting that the wife was previously employed as an English teacher in DAV School, Pitampura and had voluntarily stopped working despite being qualified. It is also submitted that the husband has already previously paid for rented accommodation and utility bills, up till 2017 and is also willing to



pay for school fees of the minor children. Placing reliance on the salary slip /income affidavit dated 05.06.2017 filed by the husband, it is contended that his monthly expenses were around Rs.1,18,000/- against his salary of Rs.1,36,000/-. Moreover, as per his income affidavit dated 29.05.2023, his present salary is around Rs.2,00,000/- and income from other sources is around Rs.25,000/-, however, he is also paying EMIs against car loan of Rs.17,51,000/-. It is also submitted that the wife has claimed herself to be without pay since July 2016 and has wrongly claimed her monthly expenditure to be around Rs.1,00,000/- without substantiating the same with any documentary evidence. It is also pointed out that the wife is a joint owner of property in Pitampura with her mother and has money to the tune of Rs.25,00,000/- in her savings bank account. Lastly, it is submitted that the husband's own expenses have increased as he is presently living in Pune, Maharashtra in a rented accommodation and is also taking care of his aged father, who is living alongwith him and has monthly expenditure of around Rs.18,000/-.

6. At this stage, learned counsel for the applicants/wife and 2 minor children submits that the minor child, namely *Taarush* is presently undergoing spinal surgery, in regard to which learned Senior Counsel for the husband, on instructions, states that the medical expense incurred for the minor child would be reimbursed as the respondent has a valid and subsisting Mediclaim policy.

7. I have gone through the impugned order as well as the material placed on record.

8. The applicants/wife and 2 minor children have preferred the underlying petition seeking maintenance under Section 125 Cr.P.C. wherein



the wife has claimed to not be earning any income since July 2016 even though she was earlier employed as a teacher earning around Rs.40,000/- per month. Both the parties have filed their respective income affidavits. The wife's income affidavit dated 14.07.2023 reveals that she spends around Rs.80,000/- per month towards maintenance on her two minor children. The husband's income affidavit dated 29.05.2023 reveals that he is living in a rented accommodation in Pune along with his father and has a monthly expenditure of Rs.60,000/- and had also invested in medical insurance for the wife and the 2 minor children. Furthermore, it was noted that he had taken a car loan of Rs.17,51,000/- and is paying Rs.35,273/- per month towards its EMI.

9. The learned Family Court has considered all the relevant documents on record, including the income affidavits filed by the parties as well as the ITRs for the Assessment Years 2014-15, 2015-16, 2016-17, 2019-20, 2020-21 and 2021-22. The income of the husband has been assessed at Rs.2,50,000/- per month and after deducting expenses towards his father, the net income is assessed at Rs.2,40,000/- per month. The family cake came to be divided amongst the husband, wife and 2 minor children in the ratio of 2:1:1:1 which is in line with the decision of a Coordinate Bench of this Court in Annurita Vohra v. Sandeep Vohra reported as **2004 SCC OnLine Del 192**, thereby awarding the said interim maintenance of Rs.48,000/- each per month to the applicants/wife and 2 minor children. Hence, in the considered opinion of this Court, the interim maintenance granted vide the impugned order is just and proper and calls for no interference.

10. In view of the above, I find no grounds to entertain the present petitions. Accordingly, the same are dismissed alongwith the pending



application.

11. However, it is clarified that in case at the time of disposal of the maintenance petition, the Family Court comes to the conclusion that the respondents are entitled to lesser or higher maintenance, in view of any new evidence coming to light, the Family Court would be at liberty to arrive at a conclusion granting adjustments either way.

MANOJ KUMAR OHRI, J

OCTOBER 18, 2024

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