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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **CRL.REV.P. 1221/2023, CRL.M.A. 31002/2023 & CRL.M.A. 31005/2023**

SAYYED WAKEEL AHMADPetitioner
Through: Mr. A.C.P. Gautam, Adv.
through V.C.

versus

RABIYA BEGUM & ANR.Respondents
Through: Ms. Vrinda Bhandari,
Adv. (DHCLSC) for R-1
with Ms. Anandita Rana,
Ms. Pragya Bassaiyan &
Ms. Vanshita Gupta, Advs.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
13.08.2024

CRL.M.A. 31004/2023 (for condonation of 24 days delay in
refiling the petition).

1. For the reasons stated in the application, the same is
allowed, and the delay of 24 days in filing the present petition is
condoned.

2. The application stands disposed of.

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31005/2023**

3. The present petition is filed under Section 397 of the
Criminal Procedure Code, 1973 ('CrPC') read with Section 482
of the CrPC seeking setting aside of the order dated 19.01.2023,
pursuant to which the petitioner was directed to pay interim
maintenance of ₹15,000/- per month.

4. The learned counsel for the petitioner submits that the

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petitioner is unemployed and not in a position to pay the interim maintenance.

5. Concededly, the impugned order is only an order in regard to award of interim maintenance. The learned Family Court noted that the petitioner had filed an affidavit of income and assets, wherein he voluntarily disclosed he was earning ₹70,000/- per month at the time of marriage and even at the time of separation, was earning around ₹30,000/- per month. Surprisingly, the petitioner mentions that now he is earning only ₹12,000/- per month. The learned Trial Court held that it is beyond explanation as to why the earning would reduce so substantially.

6. The ITR filed by the petitioner for the financial year 2016 – 2017 showed a profit of ₹6 lakh on which tax of ₹24,410/- was paid. The learned Trial Court also noted the ITRs filed for various financial years.

7. 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]

8. 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. Moreover, admittedly, the impugned order is only in regard to interim maintenance and parties would be at liberty to lead evidence to prove their defences and contentions.

9. The learned Trial Court is directed to pass a final order uninfluenced by the observations made by this Court in the *CRL.REV.P. 1221/2023*

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present order or in the impugned order.

10. The petition is dismissed in the aforesaid terms.

11. Pending applications also stand disposed of.

AMIT MAHAJAN, J

AUGUST 13, 2024

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