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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 8445/2023**

SUNIL BAILWAL

..... Petitioner

Through: Mr. Rituparn Uniyal, Mr. Abhishek
Kumar and Ms. Deeksha Saggi,
Advocates.

versus

GOVT. OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Aashneet Singh, APP for State
with SI Satish Kumar, PS Lajpat
Nagar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

15.04.2024

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CRL.M.A. 11314/2024 and CRL.M.A. 11315/2024

1. By way of present application, the applicant/petitioner seeks early hearing of the petition.
2. Learned APP for the State accepts notice and submits that he has no objection to the present application.
3. For the reasons explained in the application, the same is allowed and the petition is preponed for today. Date already fixed in the petition i.e. 31.07.2024 stands dismissed.
4. Application is disposed of alongwith miscellaneous application.

CRL.M.C. 8445/2023

1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks to assail the order dated 28.08.2023 passed by learned ASJ-



04 (NDPS), South East, Saket Courts, New Delhi in Criminal Appeal No. 117/2023 whereby order dated 28.01.2023 passed by learned M.M., South East, Saket Court directing the petitioner to pay interim maintenance has been upheld.

2. I have heard the learned counsels for the parties and have gone through the impugned orders as well as material placed on record.

3. Pertinently, vide order dated 28.01.2023, learned M.M. had directed the petitioner to pay interim maintenance @ Rs.20,000/- per month to the respondent No.2 from the date of filing of the application till its disposal. A perusal of the impugned order would show that in her complaint, respondent No.2 had averred that parties were married to each other on 10.02.2019 according to Hindu rights and customs at Delhi. The petitioner had filed his reply and denied the allegations of domestic violence. Both parties had also placed on record their respective income affidavits. The respondent no.2/complainant, in her income affidavit, claimed to be a graduate and unemployed. It has been averred that the petitioner was working as a Chef and earning Rs.1.50 lacs per month. The petitioner had also filed his income affidavit and claimed that he was unemployed. He did not disclose his source of income and, on the other hand, claimed that he had taken a home loan of Rs.27 lacs jointly with his father out of which a sum of Rs.18.10 lacs has been repaid and remaining amount was being paid by way of EMIs. The Trial Court took note of the bank statements filed by the petitioner which revealed that there are credit entries of Rs. 1,03,439, Rs.9,676, Rs.50,000, Rs.75,800, Rs.17,000, Rs 83,657, Rs.1,46,191, Rs.50,900, Rs.1,02,135, Rs.1,93,967, Rs.65,000, Rs.1,00,000, Rs.98,242, Rs.55,000, Rs.1,43,292, Rs.1,50,000 in his account.



On the basis of aforesaid credit entries, the Trial Court assessed the petitioner's salary to be about Rs.60,000/- per month on the basis of which, interim maintenance of Rs.20,000/- per month was granted to respondent No.2. The Appellate Court concurred with the aforesaid finding. In cases where the parties did not disclose any income in their affidavits, the Trial Court is entitled to look into the bank statements of the parties to arrive at a conclusion for disposal of the interim maintenance application.

4. In the present petition, bank statements of the petitioner were filed before the Trial Court, a perusal of which would show that it had regular credit entries over a period of one year. In the considered opinion of this Court, at the stage where the interim maintenance is to be awarded, the conclusion arrived at by the Trial Court is in line with the decision of the Coordinate Bench of this Court in Annurita Vohra vs. Sandeep Vohra, reported as **2004 SSC OnLine Delhi 192**. The Trial Court has rightly awarded two portions of the income to the petitioner while granting one portion to respondent No.2.

5. Accordingly, I find no ground to entertain the present petition and the same is dismissed. Consequently the impugned orders are upheld. However, considering that the impugned orders relates only to interim maintenance, it is observed that if at the conclusion of trial, Trial Court is of the view that any higher or lesser maintenance is to be granted, it shall be at liberty to grant necessary adjustments. Date already fixed in the matter i.e. 31.07.2024 stands cancelled.

MANOJ KUMAR OHRI, J

APRIL 15, 2024

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