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

% *Date of Decision: 21.08.2024*

\+ **MAT.APP.(F.C.) 273/2024**

KUSHAL BHASIN .....Appellant

Through: Mr Pradyuman Tyagi, Adv.

versus

SHALOO BHASIN .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL)

CM Appl.47807/2024

1. Allowed, subject to just exceptions.

MAT.APP.(F.C.) 273/2024 & CM Appl.47805-06/2024

2. This appeal has been filed against the judgment and order dated 12.04.2024, passed by the family court.

3. *Via* the impugned judgment, the family court has disposed of the respondent's application, effectively, under Section 24 of the Hindu Marriage Act, 1955 [in short "1955 Act"].

4. The family court has concluded, in our view quite correctly, that since the application filed by the respondent also referred to Section 25 of the 1955 Act; (a provision which relates to permanent alimony), the relief sought under

Section 25 of the 1955 Act cannot be granted.

5. In sum, the family court has awarded interim maintenance to the respondent at the rate of 8000/- per month, from the date when the application was filed i.e., 19.04.2022, till further orders.

6. We are told that the divorce petition preferred by the appellant is pending adjudication.

7. In reaching its conclusion, the family court has taken note of the fact that the appellant was the manager in his father's concern, namely, 'Tornier Packers & Movers', and even though the respondent was qualified i.e., had obtained a B.Tech. degree, she was not employed and therefore, required maintenance for her sustenance.

8. Significantly, in the judgment and order, there is a reference to WhatsApp chats concerning the appellant, wherein it appears that the appellant has alluded to the fact that he earns income in excess of Rs.30 lakhs per annum and that his business has a pan-India footprint.

9. When we queried as to whether the WhatsApp chat has been placed on our record, the learned counsel for the appellant says that the WhatsApp chat had not been placed on record.

9.1 It is quite obvious that the appellant has conveniently kept back documents which would, perhaps, go against his interest.

10. Be that as it may, the family court has granted relief to the respondent by way of an interim maintenance, which is a small amount.

11. The record bears testimony that the appellant's income has fallen drastically between the Assessment Years (AYs) spanning AYs 2018-19 and

2023-24.

11.1 For convenience, the gross income, as disclosed by the appellant, which is recorded in the impugned order, is extracted hereafter:

> *"18. On the other hand, Ld. Counsel for the petitioner submitted that the petitioner is presently without any source of income and that his current annual income as per his income tax records was only Rs.70,000/-.*
> *19. The impression that he gets on a perusal of the entire record is that the petitioner-husband is in fact concealing his true income. It may be mentioned that in his income affidavit petitioner has stated that he was employed as a Manager under his father. His father is now no more. His father passed away a few months ago. He apparently is the only son of his parents. It is apparent that his father had a business of his own. It may also be mentioned here that the petitioner whose annual income was in the range of few lacs of rupees, as per his income tax records started to disclose only Rs. 70,000/- as his annual income in his income tax records once the claim for maintenance came to be filed. The photographs on record show that the petitioner has/had a luxurious lifestyle. I cannot believe that the current annual income of petitioner-husband would be only Rs. 70,000/-, that is less than even Rs. 6,000/- per month. This is so much so that going by his averments his monthly income is less than even that of the statutory minimum wages of an unskilled labour in Delhi.*
> *20. My impression on a reading of the entire record is that the petitioner would be earning at least Rs. 40,000/- per month if not more. It may be mentioned here that in the ITR of A Y 2021-22, he had disclosed his annual income to be Rs.4,95,910/-. My assessment of income of the petitioner at Rs.40,000/- per month is based on a conservative estimate."*

12. The family court has concluded that the appellant, perhaps, has not disclosed his true income since the disclosure is in sharp contrast to the appellant's luxurious lifestyle.

13. As indicated above, the interim maintenance awarded in favour of the respondent is a nominal amount.

14. Since the appellant now has full-control of the business, after the death of his father, he would have access to the revenue earned by the family concern as well.

15. Given the foregoing reasons, we are not inclined to interfere with the judgment and order.

16. The appeal is dismissed.

17. Consequently, pending applications shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

AUGUST 21, 2024/*pmc*