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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 6850/2024, CRL.M.A. 26179/2024 and
CRL.M.A. 26180/2024
RAJ GUPTAPetitioner
Through: Mr.Shikhar, Advocate

versus

MUSKAN GUPTARespondent
Through:

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

% **ORDER**
02.09.2024

1. By way of present petition, the petitioner seeks to assail the orders dated 04.04.2024 and 01.05.2024 passed by learned Principal District & Sessions Judge, North District, Rohini, Delhi in CA No. 55/2024 vide which the petitioner was directed to pay 50% of the arrears at the time of consideration of the appeal.
2. Pertinently, the present petition arises in the context of a complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2004 by the respondent wherein she by virtue of an application under Section 23 of the Protection of Women from Domestic Violence Act, 2004 had sought interim maintenance.
3. While considering the facts of the case, Mahila Court had directed the petitioner to pay Rs.16,500/- per month as interim maintenance to the respondent from the date of filing of the case till further orders vide order dated 01.03.2024. The same came to be challenged by way of an appeal by the petitioner. In the said proceedings, the impugned orders came to be



passed which are under challenge before this Court.

4. In her complaint, the respondent claims that her marriage with the petitioner was solemnized on 29.11.2009 as per Hindu rites and ceremonies whereafter she had started living separately from the petitioner since 15.01.2017. The respondent claims that though she has pursued BCA, she currently resides in her parental home as she is suffering from 4th stage cancer and is unemployed, having no source of income. She further claims that the petitioner, who is a qualified as B.Com and L.L.B. has a monthly income of about Rs.11,00,000/-, which include rental incomes, income from business of property dealing, shop in Sultanpuri and other sources. The petitioner filed an income affidavit admitting to his qualification to claim taking home tuitions and earning only Rs.17,000/- per month. He claims that the complainant is a qualified person being BCA/ MBA/ MMC and employed as a Computer Teacher at Maharaja Agrasen Sr. Secondary School, Narela, Delhi and earning about Rs.2,00,000/- per month.

5. The Mahila Court, while granting interim maintenance, took note of the fact that the petitioner was having 4 credit cards with high credit limits which is reflected in his CIBIL score. The Court further took into account the deteriorating health medical conditions of the respondent as well as the affidavit filed on behalf of the brother of the complainant that he has transferred some money in the account of his sister in the year 2021. The petitioner has further admitted to be residing in a 4 BHK House in Uttam Nagar though stated to be in the name of his father. The family has a business of iron and also stated that the family owns three cars, being a Baleno, Swift and a Wagon R. He also admitted to be having 3-4 credit cards. Insofar as the petitioner's allegations qua the complainant being



employed is concerned, nothing concrete was placed before the Court.

5. In the aforesaid facts, Mahila Court assessed the monthly income of the present petitioner to be Rs.50,000/- for the purpose of deciding the application. The court took into account the ratio of decision in Annurita Vohra v. Sandeep Vohra reported as **2004 SCC OnLine Del 192** and granted interim maintenance @ Rs.16,500/- per month to the respondent.

6. The appellate court, while issuing notice in the appeal, also directed the petitioner to pay 50% of the arrears. On a specific query, learned counsel for the petitioner, on instructions, submits that till date not a single penny has been paid towards interim maintenance.

7. Considering that the appeal is pending consideration and the impugned order is qua grant of interim maintenance, I find no ground to entertain the present petition.

8. Accordingly, the present petition is dismissed alongwith the pending applications. 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 respondent is entitled to lesser or higher maintenance, the Family Court would be at liberty to grant adjustment of the arrears either way.

MANOJ KUMAR OHRI, J

SEPTEMBER 2, 2024

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