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

+ **CRL.REV.P.(MAT.) 28/2024**

AVDHESH KUMAR

.....Petitioner

Through: Mr. Naveen Kumar & Mr.
Kunal Rexwal, Advs.
(through VC)

versus

PREETI SINGH & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **12.09.2024**

CRL.M.A. 27614/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present petition is filed challenging the order dated 06.07.2024 passed by the learned Family Court, Saket Courts, Delhi in Mt No. 379/2023 pursuant to which the petitioner has been directed to pay a monthly interim maintenance of ₹25,000/- to the respondents who are the wife and minor children of the petitioner (₹10,000/- per month to the wife and ₹7,500/- to each minor child).

4. The learned counsel for the petitioner submits that the petitioner is earning ₹57,000/- per month and the award of maintenance of a sum of ₹25,000/- is unreasonable.

5. He submits that Respondent No. 1 has been working with an NGO and is earning a handsome amount of salary. He further submits that Respondent No. 1 also has a property which has been given on rent. On being pointedly asked, the learned counsel for the petitioner submits that he does not have any

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evidence, at this stage, to support the contention that the Respondent No. 1 is getting any salary or any rental income from the property.

6. Concededly, the petitioner is getting a salary of ₹57,000/- per month.

7. This Court in the case of **Annurita Vohra v. Sandeep Vohra : 2004 (74) DRJ 99** had observed that the court should initially determine the net disposable income of the Husband or the primary earner within the family. If the other spouse is also employed, those earnings should be taken into consideration. This collective income forms the Family Resource Cake, which is then distributed among the family members. The allocation of this "cake" should align with the financial needs of each family member, and an equitable approach would involve dividing the Family Resource Cake into two portions for the Husband, acknowledging his additional expenses incurred in earning, and one portion each for the other members.

8. It is trite law that a husband cannot shirk his sacrosanct duty to financially support his wife. The Hon'ble Apex Court, in the case of **Shamima Farooqui v. Shahid Khan : (2015) 5 SCC 705**, observed as under:

*“14. It can never be forgotten that the inherent and fundamental principle behind Section 125 CrPC is for amelioration of the financial state of affairs as well as mental agony and anguish that a woman suffers when she is compelled to leave her matrimonial home. The statute commands that there have to be some acceptable arrangements so that she can sustain herself. **The principle of sustenance gets more heightened when the children are with her.** Be it clarified that sustenance does not mean and can never allow to mean a mere survival. A woman, who is constrained to leave the marital home, should not be allowed to feel that she has fallen from grace and move hither and thither arranging for sustenance. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of*



her husband. And that is where the status and strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one. As long as the wife is held entitled to grant of maintenance within the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity as she would have lived in her matrimonial home. She cannot be compelled to become a destitute or a beggar. There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite having sufficient means neglects or refuses to maintain the wife. Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law. If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right."

(emphasis supplied)

9. The impugned order is only in regard to the interim maintenance. The petitioner would have liberty to lead evidence to support his contention that Respondent No. 1 also has other source of income and she is not entitled for the maintenance.

10. However, at this stage, when no evidence has been put forth, in terms of the formula as mentioned in the judgment passed by this Court in *Annurita Vohra v. Sandeep Vohra* (*supra*) the amount of interim maintenance for a sum of ₹25,000/- per month for the wife and minor children is not unreasonable.

11. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

SEPTEMBER 12, 2024

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