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

+ **CRL.M.C. 7464/2024**

DALEEP KUMAR

.....Petitioner

Through: Ms. Jaya Tomar, Advocate.

versus

STATE GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Shoaib Haider, APP for the State.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **20.09.2024**

CRL.M.A. 28489/2024 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.C. 7464/2024 & CRL.M.A. 28488/2024

1. The Petitioner has approached this Court challenging the Judgment and Order dated 24.07.2024 passed by the learned Additional Sessions Judge, Karkardooma Courts, Delhi upholding the Order dated 10.07.2023 passed by learned Metropolitan Magistrate directing the Petitioner herein to provide accommodation to the Respondent as enjoyed by the Complainant/Respondent.
2. These proceedings arise under the Protection of Women from Domestic Violence Act. Pending the application under the Protection of Women from Domestic Violence Act, the learned Metropolitan Magistrate has refused the claim of the Respondent towards maintenance on the ground that the Respondent does not require any maintenance. However, learned



Metropolitan Magistrate held that the Respondent is entitled to accommodation under the various provisions of the Protection of Women from Domestic Violence Act. The said order has been upheld by the Appellate Court.

3. The Order dated 10.07.2023, passed by the learned Metropolitan Magistrate is on an application filed by the Respondent herein under Section 19 of the Protection of Women from Domestic Violence Act, 2005. The learned Metropolitan Magistrate has come to a finding that the Respondent herein is a victim of domestic violence and the fact that the Petitioner herein is maintaining himself and his children does not absolve him of his responsibility to maintain his legally wedded wife, therefore, she has a right to reside in a shared household. But it was also noted that as there are multiple litigations going on between the parties and the relation between them is acrimonious which is apparent from the conduct of the parties, it would not be feasible for them to reside in a shared household. Hence, the Petitioner herein was directed to secure the same level of alternate accommodation for the Respondent herein within 3 months of passing this order.

4. Aggrieved by the Order dated 10.07.2023, the Petitioner herein preferred an Appeal before the learned Additional Sessions Judge. In the appeal the Petitioner herein stated that Respondent/wife is a practicing lawyer and is self-sufficient to maintain herself and he is already maintaining his two children since very long. It was also stated that the Petitioner is not in a position to provide any alternate accommodation to his wife. The learned ASJ after taking into consideration all the contentions



raised by both the parties was of the view that the right to claim monetary maintenance is different from the right to reside in a shared household. The learned ASJ also held that the order dated 10.07.2023 passed by the learned Metropolitan Magistrate is a well-reasoned order and does not require any interference. Hence, the order was upheld.

5. After hearing the learned Counsel for the Petitioner in detail, this Court is of the opinion that the orders passed by the learned Metropolitan Magistrate and the Appellate Court are well reasoned and does not require any interference.

6. Learned Counsel for the Petitioner states that since the Petitioner is taking care of his two children and he is not in a position to provide an accommodation for about Rs.15,000/- per month, which was the accommodation where the Petitioner and the Respondent were residing and which now would be roughly Rs.15,000/- per month. It is stated that the Petitioner has given offer to the Respondent to provide a sum of Rs.4,500/- per month, which according to the learned Counsel for the Petitioner is in consonance with Section 19(1)(f) of the Protection of Women from Domestic Violence Act, which provides that it is open for the Respondent in a proceedings under the Protection of Women from Domestic Violence Act either to provide an accommodation or to pay rent for the same, if the circumstances so require. Learned Counsel for the Petitioner states that the same has not been considered/decided by the Appellate Court.

7. It is always open for the Petitioner to renew this offer in the proceedings pending before the Protection of Women from Domestic Violence Act and the learned Metropolitan Magistrate is requested to



consider the application of the Petitioner, if any, filed in accordance with law.

8. With these observations, the petition stands disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

SEPTEMBER 20, 2024

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