



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

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Date of Decision: 20.02.2024

+ **CRL.REV.P. 239/2024, CRL.M.A. 5439/2024 and CRL.M.A. 5440/2024**

MANEESH TRIVEDI

..... Petitioner

Through: Mr. Dinesh Kumar Tiwary, Advocate
versus

PALLAVI TRIVEDI

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

CRL.M.A. 5440/2024 (delay in re-filing)

1. By way of present application filed under Section 482 Cr.P.C., the petitioner seeks condonation of delay of 50 days in re-filing the petition.
2. For the reasons stated in the application, the same is allowed and delay of 50 days in re-filing the petition is condoned.
3. The application is disposed of.

CRL.REV.P. 239/2024

1. By way of present petition filed under Section 397/401 read with Section 482 Cr.P.C., the petitioner assails the order dated 14.10.2023, passed in MT No. 884/2016 whereby respondent's application for maintenance under Section 125 Cr.P.C. was partly allowed, inasmuch as though respondent was not granted any maintenance however, her minor son was granted monthly maintenance @ Rs.40,000/- from the date of filing of the petition till he attains majority or gets married or starts earning, whichever is



earlier.

2. Learned counsel for the petitioner has challenged the quantum of maintenance granted to his minor son as well as findings recorded qua the findings given on the aspect that petitioner's conduct amounted to cruelty towards respondent no.1 .

3. Pertinently, the respondent on behalf of herself and her son had preferred the aforementioned maintenance petition under Section 125 Cr.P.C. The respondent claimed that she got married to the petitioner on 09.02.2010 and out of the wedlock, a son was born. Subsequently, the respondent alongwith her son went to London on 20.03.2010 to join petitioner's company. The respondent stayed in London from 20.03.2010 to 23.10.2010 whereafter, she alongwith the minor son returned to India and since then has been staying with her parents. The respondent made several allegations of cruelty against the petitioner and his family members. She also claimed that petitioner was earning a salary of Rs.1.80 lacs per month and prayed that maintenance @ Rs.75,000/- per month be granted to them.

4. Petitioner contested the proceedings and filed a reply/written statement, wherein it was stated that the respondent had earlier filed a similar petition before the concerned court at Kanpur, which came to be dismissed for non-prosecution and which fact was suppressed by the respondent. Petitioner also challenged the territorial jurisdiction by contending that the marriage between the parties was solemnized at Kanpur whereafter, the parties had cohabitated in Ghaziabad, U.P. It was further claimed that the parties' minor son was studying in Ghaziabad, U.P., which falsify the claim that respondent is a resident of Delhi.

5. During the trial, respondent examined herself as PW1. The petitioner



however, not only failed to cross-examine her, but also did not lead any evidence. Resultantly, the testimony of respondent remained unrebutted.

6. The aspect of denial of maintenance to the respondent-wife is not under challenge and therefore, this Court need not to go into the same. Suffice to note that while denying the same, the family court had noted that there was concealment of information about her income and assets. The Court also noted that consequent to the order in an earlier proceedings, the respondent was getting maintenance @ Rs.50,000/- per month.

7. While granting maintenance to the minor son of the parties, the Court noted that though the petitioner had not filed any affidavit of income and assets or any salary slip to prove his actual earning, as per his acknowledgment, he admitted to earning Rs.1.80 lacs per month. It was further observed that the petitioner was liable to maintain his minor son, who was studying in class VII. Considering the educational expenses as well as expenses for other extra-curricular activities alongwith the maintenance expenses, the family court directed payment of monthly maintenance @ Rs.40,000/- till the minor son attains majority or gets marriage or starts earning, whichever is earlier. The Court further directed that any ad-interim /interim which has been granted either in the subject petition or any other proceedings would be liable for adjustment/set off against the order of maintenance.

8. In the considered opinion of this Court, the impugned order has been passed in the light of the well-established line of decisions like Rajnish v. Neha & Anr.¹ and Annurita Vohra v. Sandeep Vohra². As already noted

¹ (2021) 2 SCC 324

² 2004 SCC OnLine Del 192



above, the petitioner neither cross-examined the respondent nor led any evidence. In absence of any contrary material placed on record or any challenge to respondent's deposition, the impugned order does not call for any interference.

9 Insofar as petitioner's contention on the aspect of the family court holding allegations of cruelty as being proved is concerned, it is suffice to note that in the impugned order, the family court also observed that the maintenance proceedings under Section 125 Cr.P.C. are summary in nature and the allegations of cruelty and harassment are not required to be proved beyond doubt or like in a civil proceedings of divorce under Hindu Marriage Act.

10. Accordingly, the petition is dismissed. Pending application is disposed of as infructuous.

MANOJ KUMAR OHRI
(JUDGE)

FEBRUARY 20, 2024
ga/na