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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P.(MAT.) 178/2024**

RAMAN VERMAPetitioner
Through: Mr. K.S. Chaudhary, Adv.

versus

ALKA KUMARIRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
23.12.2024

CRL.M.A. 38855/2024 (for exemption)

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

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3. The petitioner challenges the order dated 09.08.2024 whereby the petitioner was directed to pay an interim maintenance of ₹10,000/- per month to the respondent/wife. The relationship between the parties is not disputed.

4. The learned counsel for the petitioner submits that the petitioner is earning only a net salary of ₹24,560/- and ought not to be directed to pay ₹10,000/- per month as interim maintenance. He submits that the petitioner is also paying an EMI of ₹13,500/- per month because of a personal loan he had taken in order to pay the respondent pursuant to the settlement they had arrived at, at some stage, which was never honoured by the respondent.



5. He submits that the petitioner, in such circumstances, does not have sufficient means to pay a sum of ₹10,000/- per month as interim maintenance to the respondent.

6. The learned Trial Court while noting that the salary slip of the petitioner depicted his monthly salary as ₹24,560/-, also took note of the fact that the bank statement of the petitioner reflected different entries for different amounts on various dates that too on regular intervals.

7. The learned Trial Court also noted that a sum of ₹3,00,000/- was deposited in the petitioner's account on 08.11.2021 and another sum of ₹54,600/- on 19.04.2022.

8. The learned Trial Court, thus, *prima facie* held that the petitioner may not have been disclosing his actual earnings and awarded a sum of ₹10,000/- per month as interim maintenance to the respondent.

9. Even if the case of the petitioner is taken at the highest, and it is considered that he had obtained certain amount from the bank for which he has to pay EMI, the same cannot be a determining factor for award of maintenance.

10. It is the case of the petitioner that the said amount was paid to the respondent pursuant to the settlement, however, nothing has been brought on record, at this stage, to show that the amount was, in fact, taken to fulfil certain obligations in an alleged settlement that the petitioner might be considering with the respondent.

11. The petitioner has also not been able to show that the respondent wife has been gainfully employed at this stage.

12. The object of granting maintenance is to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to



support. The Hon'ble Apex Court in **Chaturbhuj v. Sita Bai : (2008) 2 SCC 316**, has observed as under:

*"6. The object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support. The phrase "unable to maintain herself" in the instant case would mean that means available to the deserted wife while she was living with her husband and would not take within itself the efforts made by the wife after desertion to survive somehow. Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in Captain Ramesh Chander Kaushal v. Veena Kaushal [(1978) 4 SCC 70 : 1978 SCC (Cri) 508 : AIR 1978 SC 1807] falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. **The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves.** The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat [(2005) 3 SCC 636 : 2005 SCC (Cri) 787 : (2005) 2 Supreme 503].*

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*In an illustrative case where the wife was surviving by begging, it would not amount to her ability to maintain herself. It can also be not said that the wife has been capable of earning but she was not making an effort to earn. **Whether the deserted wife was unable to maintain herself, has to be decided on the basis of the material placed on record. Where the personal income of the wife is insufficient she can claim maintenance under Section 125 CrPC. The test is whether the wife is in a position to maintain herself in the way she was used to in the place of her husband.** In Bhagwan Dutt v. Kamla Devi [(1975) 2 SCC 386 : 1975 SCC (Cri) 563 : AIR 1975 SC 83] it was observed that the wife should be in a position to maintain a standard of living which is neither luxurious nor penurious but what is consistent with status of a family. The expression "unable to maintain herself" does not mean that the wife must be absolutely destitute before she can apply for maintenance under Section 125 CrPC."*

(emphasis supplied)

13. It is trite law that a husband cannot shirk his sacrosanct duty to financially support his wife and children. The Hon'ble Apex Court, in the case of **Anju Garg and Anr. v. Deepak** CRL.REV.P.(MAT.) 178/2024

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Kumar Garg : 2022 SCC OnLine SC 1314, observed as under:

*“10... The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. **The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute...***

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*13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no Court is neither impressed by nor is ready to accept such submissions. **The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child...***

(emphasis supplied)

14. Thus, it is incumbent on the petitioner, who is an able-bodied man, to financially support the respondent, who is his legally wedded wife.

15. Even otherwise, the impugned order is only in regard to the interim maintenance.

16. The learned Trial Court will consider all the evidences led by the parties during the trial and pass the final order. At this stage, an amount of ₹10,000/- as an interim maintenance is a reasonable amount.

17. In view of the above, this Court finds no reason to interfere with the impugned order and the petition is dismissed in the aforesaid terms.

18. The learned Trial Court is directed to pass the final order uninfluenced by the observations made in this order.

19. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

DECEMBER 23, 2024

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