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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 606/2017**

PUSHPA

.....Petitioner

Through: **Mr. Vikesh Rathi,**
Advocate (Through V.C.).

versus

YOGENDER KUMAR DABAS

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

19.09.2024

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1. The present petition is filed against the judgment dated 30.03.2017 (hereafter '**impugned order**') passed by the learned Principal Judge, Family Courts, North District, Rohini, Delhi in MT No. 56155/2016 titled *Pushpa vs. Yogender Kumar Dabas*.
2. By impugned order, the learned Family Court, in a petition filed by the petitioner under Section 125 of the Code of Criminal Procedure, 1973 ('**CrPC**'), directed the respondent to pay a sum of ₹25,000/- per month as maintenance. The learned Family Court observed as under:

“Admittedly the petitioner is under depression which can be understood since the children are staying with the father. Though no reasons has come on record for the same, since this aspect is not either pleaded nor under challenge before this court it is only considered as an aspect to emphasize that the petitioner must be under depression due to loneliness too. It is therefore, duty of the court to ensure that an order for maintenance in favour of petitioner is passed to ensure that she is able to lead a decent life with the same standard as that of her husband and children. At the same time for the reasons mentioned above that the needs and expenses of the children are on the shoulders of the respondent the order is being balanced in his favour too. Therefore, considering the other facts and circumstances and evidence placed on record, I am of the opinion that ends of justice would be met by awarding maintenance to the tune

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of Rs.25,000/- per month for the petitioner w.e.f the date of petition i.e. 10.06.2011. The total maintenance amount shall be enhanced by 5% every year.”

3. The learned counsel for the petitioner submits that the learned Family Court erred in awarding a sum of ₹25,000/- per month to the petitioner as maintenance. He submits that the said amount is too meagre and does not take into account the expenses of the petitioner. He submits that the petitioner is suffering from depression, and is completely dependent on her father. He submits that the petitioner is not gainfully employed, and has no independent source of income. He submits that the respondent is earning a sum of ₹1,80,000/- per month, and prays that the maintenance awarded to the petitioner be enhanced.

4. The learned counsel for the respondent submits that the maintenance awarded to the petitioner was fair and sufficient. He submits that the learned Family Court has considered the financial status of the respondent, and submits that the maintenance amount reflects his financial obligations. He consequently submits that the present petition be dismissed.

5. I have heard the submissions of the counsels for both the parties, and perused the material on record.

6. Section 125 of the Code of Criminal Procedure, 1973 (CrPC) is a provision designed to provide a quick remedy to those who are unable to maintain themselves. The primary objective of this section is to prevent vagrancy and destitution by ensuring that those who are dependent on another for their subsistence, such as a wife, children, or parents, receive financial support when they are unable to maintain themselves. The Supreme Court in **Chaturbhuj v. Sita Bai : (2008) 2 SCC 316** emphasized that the object of maintenance proceedings is not to punish a person for past neglect but to ensure that those entitled



to support are not left in distress. This provision embodies the social responsibility and moral duty to maintain one's dependents.

7. In the present case, the learned Family Court has considered that the respondent himself admitted in his cross examination that he was presently earning a sum of ₹1,80,000/- per month. It was noted that the respondent owned and maintained four cars. It was further noted that the respondent, in his cross examination, did not deny that his four children are studying, and that the respondent spends about ₹4-5 lakhs per annum on their education.

8. The learned Family Court also perused the income tax return statement of the year 2016-2017 which revealed that the annual return filed by the respondent was for ₹25 lakhs. It was further noted that the respondent is taking care of all the four children who are also stated to be in the custody of the respondent. It was noted that the respondent was not shirking away from his responsibility as a father to give the best possible education to all the children.

9. The learned Family Court, considering the facts and circumstances of the case, and that the respondent was looking after the needs and expenses of four children, awarded maintenance for a sum of ₹25,000/- per month to the petitioner.

10. The only aspect that requires determination is whether the sum of ₹25,000/- per month to the petitioner as maintenance is a reasonable amount. For the purpose of determination of the adequacy of the maintenance amount, reference may be had to the decision of this Court in ***Annurita Vohra v. Sandeep Vohra : 2004 (74) DRJ 99.***

11. This Court in the case of ***Annurita Vohra (supra)*** 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.

12. In line with the dictum of *Annurita Vohra (supra)*, out of the total net disposable income of the respondent, two shares are to be allotted to the respondent being the earning member, and one share each is to be allotted to the petitioner, and the four children. It is undisputed that the monthly income of the respondent is ₹1,80,000/-. This sum is to be divided in 7 portions, wherein 2 shares would be allotted to the respondent being the earning member, and one share each to the remaining family members. Consequently, on applying the formula, the share of the petitioner would approximately come to around ₹25,000/- per month. In such circumstances, in my opinion, the maintenance awarded by the learned Family Court is a reasonable amount.

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

AMIT MAHAJAN, J

SEPTEMBER 19, 2024/ ‘Aman’

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