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

+ CRL.M.C. 6427/2018, CRL.M.A. 49920/2018, CRL.M.A.
49922/2018, CRL.M.A. 243/2019, CRL.M.A. 41416/2019,
CRL.M.A. 41417/2019, CRL.M.A. 30847/2024, CRL.M.A.
30848/2024
SHRI PARITOSH JAINPetitioner

Through: Ms. Seema Seth, Mr. Satish Panchal,
Ms Muskaan Deswal, Ms. Poorvi
Jain, Advs.

versus

MS. RITIKA JAINRespondent

Through: Mr. Ashish Negi, Ms. Sushila, Advs.
with respondent.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
06.11.2024

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1. The present petition has been filed under Section 482 Cr.P.C. aggrieved of order dated 03.10.2018 passed by learned ASJ, Saket Court in Criminal Appeal No. 204425/2016 vide which the learned ASJ dismissed the appeal u/s 29 DV Act against the order dated 18.09.2015 passed by learned MM, Saket Court u/s 12 DV Act. Vide order dated 18.09.2015, learned MM granted the respondent an interim maintenance at the rate of Rs.60,000/- per month from the date of filling of the petition, in CC No. 149713/2012.
2. It is pertinent to mention here that this Court on 08.07.2019 stayed the impugned order subject to the deposit of Rs. 10 Lakhs. Admittedly, the



sum of Rs. 10 lakhs has been deposited by the petitioner and same has been withdrawn by the respondent. It is also pertinent to mention here that in the proceeding before the learned Division Bench in MAT.APP.(F.C.) 65/2024 the appellant/petitioner was directed to pay maintenance at Rs. 30,000/- per month commencing from September 2024.

3. Learned counsel for the petitioner has submitted that the order passed by the learned Trial Court and the learned Appellate Court is totally erroneous. Learned counsel submits that the respondent/wife is living with the grandmother of the petitioner on a separate floor. Learned counsel submits that the respondent is maintaining a luxury car. It has further been submitted there are many unexplained cash entries in the account with Bank of Rajasthan maintained by her, which has been concealed. Learned counsel for the petitioner submits that the income of the petitioner has wrongly been assessed by the learned Trial Court.
4. Learned counsel for the respondent submits that the learned Trial Court and the learned Session Court have passed a reasoned order and the jurisdiction of this Court is limited to interfere.
5. The order dated 18.09.2015 was passed by the Ld. MM in the proceedings under DV Act and the same was challenged by way of an appeal. The order in criminal appeal should have been challenged by way of the revision petition. However, the petitioner has preferred the petition under Section 482 Cr.P.C. Be that as it may the jurisdiction under Section 397 or 482 Cr.P.C. are very limited in nature. Section 397 Cr.P.C. permits the Court to exercise its jurisdiction only when there is a patent illegality, perversity or incorrect order. Similarly, the



power under Section 482 Cr.P.C. can be exercised only when there is a abuse of process of Court or the continuance of the proceedings may cause perpetuate injustice.

6. In the present case, the learned Trial Court while awarding maintenance under Section 12 DV Act has *inter alia* held as under:

“It is a settled law that while deciding maintenance, the Court has to take into account all the circumstances. The Court is not bound by the version of the respondent, especially when he is guilty of deliberate concealment of facts with a view to avoid liability.

Keeping the above mentioned circumstances into consideration, monthly income of respondent no. 1 between Rs.2,00,000 to Rs. 3,00,000/- per month, if not more.

As per the settled law, the complainant is entitled to the same standard of living which she enjoyed at the time when she was residing with the respondent under the shared household. She is further entitled to standard of living commensurate with the income of the respondent. The complainant is residing at the matrimonial house itself.

Accordingly, the respondent is is directed to pay Rs 60,000/- per month in favour of complainant towards, maintenance & ancillary expenses from the date of filing of petition je 19.10.2012 till final disposal of the petition or till she is legally entitled to receive the same, whichever is earlier.”

Therefore, maintenance of Rs. 60,000/- per month has been granted by the learned Sessions Court. The same has been analyzed thread bare by the learned Session Court. It is pertinent to mention here that it was only an interim maintenance. The documents as being highlighted by the learned counsel for the petitioner are still required to pass the acid test of the trial.



7. I consider that there is nothing on the record which could prompt this Court to interfere into the order of the Ld. MM or Ld. Additional District Judge. However, since the sum of Rs. 30,000/- has been directed to be paid by the learned Division Bench of this Court in MAT.APP.(F.C.) 65/2024, the petitioner shall be liable to pay a sum of Rs. 30,000/- only subsequent to the order of learned Division Bench. The arrears so accrued shall be cleared by the petitioner within one year in four installments. However, no expression made herein shall tantamount to be an expression on the merits of the case. Learned Trial Court shall fix the maintenance on the basis of evidence/material on record in accordance with law at the culmination of trial.
8. The petition along with pending applications stands dismissed.

DINESH KUMAR SHARMA, J

NOVEMBER 6, 2024/AR/KR...