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

+ MAT.APP.(F.C.) 75/2025 and CM APPL. 10593/2025 –Stay, CM APPL. 10594/2025 –Ex., CM APPL. 10595/2025 –Delay 70 days (F), CM APPL. 10596/2025 –Calling TCR, CM APPL. 10597/2025 –Dir.

ANIL BABBAR

.....Appellant

Through: Ms. Juhi Arora, Advocate.

versus

UPASNA KAPOOR

.....Respondent

Through: Mr. Deepak Singh Thakur, Advocate.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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20.02.2025

1. The present appeal under Section 19 of the Family Courts Act, 1984 read with Section 28 of the Hindu Marriage Act, 1955 seeks to assail the order dated 09.05.2024 passed by the learned Family Court, South-West District, Dwarka Court, New Delhi in HMA No.2796/2018. Vide the impugned order, learned Family Court has rejected the applications preferred by the appellant/husband praying for initiation of proceedings against the respondent/wife under Section 340 of the Bhartiya Nagrik Suraksha Sanhita “the BNSS” (erstwhile Code of Criminal Procedure, 1973).

2. Having perused the impugned order and considered the submissions of the learned counsel for the appellant, we find that while rejecting the appellant’s aforesaid prayer, the learned Family Court held as under:



“13. It is true that in the income affidavit dt. 26.02.2019, respondent has mentioned only 1 bank account and in another income affidavit dt 30.01.2021, filed in maintenance petition u/s 125 Cr.P.C in Karkardooma Courts, she has mentioned about 3 bank account and 2 debit cards of different banks. But it cannot be said that same has been done deliberately in the present matter to conceal the income. It appears that both the income affidavits are in different format. Income affidavit filed in present case does not contain requirement of furnishing information about debit/credit cards. Merely because having 5 accounts with the bank, it cannot be presumed that she is earning. Further, there is a difference of about 2 years in both income affidavits. There is nothing on record to substantiate the plea of petitioner that school fee slips are false.

14. Present application has been filed by petitioner after submission of the income affidavit in maintenance case. If respondent had intention to conceal her earning then aforesaid information would have not been disclosed in subsequent income affidavit. In view of above observation, this court finds no sufficient ground to proceed against the respondent u/s 340 Cr.PC hence, both the applications are dismissed.”

3. In the light of the aforesaid findings of the learned Family Court, what emerges is that the Court has declined to initiate action against the respondent after finding that there was no deliberate concealment of any kind by her. We find absolutely no infirmity in this approach adopted by the learned Family Court. We, accordingly, dismiss the appeal, which is, even otherwise barred by limitation as well.

4. While dismissing the appeal, we note that the appellant is a practicing Advocate, who claims to have already filed three cases against the respondent besides having filed 7-8 appeals impugning the interim orders passed in those three cases initiated by him. In these circumstances, we



wonder as to how he was entitled to seek legal aid under the aegis of Delhi High Court Legal Services Committee ('DHCLSC').

5. We, therefore, direct the Secretary of DHCLSC to examine as to whether the appellant actually required legal aid, when he is himself a practising Advocate.

6. A copy of this order be forwarded to the Secretary of DHCLSC for information.

7. The appeal, alongwith the accompanying applications, is accordingly dismissed.

REKHA PALLI, J

SAURABH BANERJEE, J

FEBRUARY 20, 2025/uk