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

\+ CRL.REV.P. 284/2021, CRL.M.A. 14613/2021 & CRL.M.A. 24509/2023

AKSHAY BHATIA .....Petitioner

Through: Mr. Varchaswa Singh, Advocate

versus

MS PRIYANKA DHINGRA BHATIA .....Respondent

Through: Mr. Vijay Kinger, Mr. Ashwani Gehlot, Ms. Roopa Nagpal, Advocates along with Respondent in person

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% **29.01.2025**

1. The present revision petition under Sections 397 and 401 read with Section 482 of Code of Criminal Procedure, 1973 is directed against order dated 18th December, 2020 passed by the District and Sessions Judge, Shahdara, Karkardooma Courts, Delhi[1] passed in Criminal Appeal No. 88/20. Through the said order, the Appellate Court has set aside order dated 05th March, 2020 passed by Metropolitan Magistrate[2] in Complaint No. 2521/2018, and awarded an interim maintenance amount of INR 20,000/- to his wife, the Respondent.

2. The background leading to the filing of the present petition is as follows:

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[1] "Appellate Court"
[2] "Trial Court"

2.1 The Respondent filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005,[3] which is currently pending trial. In the said proceedings, she filed an application under Section 23 of the DV Act, seeking interim maintenance from the Petitioner. However, the Trial Court, *vide* order dated 05th March, 2020, declined the request.

2.2 Aggrieved by the aforesaid order, the Respondent preferred an appeal before the Appellate Court. Upon consideration of the relevant facts, the Appellate Court overturned the decision of the Trial Court, and awarded interim maintenance of INR 20,000/- to the Respondent. The observations made by the Appellate Court in the impugned order are as follows:

> "*10. Vide the impugned order dt. 05.03.2020 the Ld. Trial Court observed that petitioner/complainant-therein submitted that presently she is working in Standard Charted Bank and drawing in hand salary of Rs. 62,000/-. Petitioner-therein stated in her affidavit that she is living in self acquired property by disposing of her costly Istridhan articles. Ld. Counsel for the complainant-therein stated that respondent No. 1 is Proprietor of M/s Interra Cognita ID Solution, which deals in Animal Ear Tag and is earning Rs. 50-70 lakh annually. Per contra respondent No.1 submitted that he is graduate and working as Project Head in Iterra Cognita ID solutions and getting salary of Rs.30,000/- per month. The respondent No. 1 has flied appointment letter and salary slip. Ld. Trial Court also observed that both the parties are working. Wife is working in Standard Charted Bank and is earning Rs.62,000/- per month, whereas husband is stated to be earning Rs.35,000/- per month. Since, wife is a working woman having sufficient means to maintain herself, therefore, Ld. Trial Court was not inclined to grant interim maintenance at that stage and accordingly dismissed the said interim application.*
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> *11. In view of the facts and circumstances of the case, income affidavits of the parties, documents and the impugned order dt.05.03.2020, I am of the considered opinion that the appellant/ husband is duty bound to maintain his wife for her day to day expenses as well as medical expenses as per his status and income. The detailed income affidavits of both the parties and also the documents filed on record have also been perused and*

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considered by this Court in this appeal. In the present appeal, the appellant has challenged the impugned order dt.05.03.2020 with the grievance that she is working and earning to lead a dignified life but the respondent is living a lavish life and Ld. Trial Court did not consider the huge income of the respondent which is reflected from the various deposits in his bank statement. The respondent is earning handsome income being Proprietor of M/s Interra Cognita ID Solution. The income of the respondent was not verified from his bank statement filed before the Ld. Trial Court. Whereas, the appellant has less income and she is entitled to enjoy equality of status and standards of life as that of respondent. The appellant has also alleged that respondent has not filed his last three years' Account Statement for the financial year 2015-16, 2016-17 and 2017-18 and also balance sheet, Trading and P&L Account and Bank Statement of the firm. Further, as per the appellant, income of the respondent for the assessment year 2017-18 comes to Rs.42,12,868/-. According to the appellant, her annual income for the assessment year 2017-18 is Rs.3,72,236/- which is much less than the respondent. The appellant has further alleged that the respondent travelled various countries before and after marriage and also major cities of India. On the other hand, the respondent-herein stated that he is Project Head with Interra Cognita ID Solutions, 121, Allied House, Old Rohtak Road, New Delhi-110035 and his monthly income is Rs.35,000/-. He alleged that the appellant-herein/wife is MBA Graduate and her earning is Rs.60,000/- pm, which is higher in comparison to his income. He also alleged that appellant has investments and she has no liability. The respondent also claimed that he has to pay Rs.5,000/- pm on rental accommodation.

12. There are allegations of genuinity /manipulation of the documents filed by the parties before the Ld. Trial Court. The documents filed by the parties are also to be proved before the Ld. Trial Court. It is apparent from the records that the appellant has made allegations against the respondent discussed above such as that respondent shown his annual income of Rs.50 to 70 lakhs in his profile at the time of marriage, that he is the Proprietor of Interra Cognita ID Solution firm and running the same by himself, that the current account balance of the said firm on 06.01.2017 was Rs.60,03,770.44 paisa and on 20.10.2017 it was Rs.93,80,641.72 paisa and on 02.02.2018, it was Rs.83,76,775.28 paisa and the saving account deposits in a year and a credit card payments of respondent is around Rs.40.00 lakhs, that he obtained factory license certificate as authorised signatory of the firm, that he applied for government *tenders, that the current turnover of the firm is Rs.2 to 5 crores, that there are credit card entries, bank accounts of the respondent, that his annual income is Rs.40.00 lakhs, that mother of the respondent is housewife and that the fake document filed by him. As per the appellant, the respondent intentionally and deliberately did not file his last 3 years account statements for the financial year 2015-2016, 2016-2017 and 2017-2018, Balance Sheets, Trading and P&L Account and Bank Statement of the firm. According to the appellant, on the basis of the bank statement and other details provided by the respondent, his income for the assessment year comes to Rs.42,12,868/-. It appears from the materials on record that the respondent is hiding I concealing his real income & status. The judgments relied upon by the Ld.Counsel for the respondent in the written arguments are distinguishable from the facts and circumstances of the present case. Therefore, considering the income and status of the parties and to meet the ends of justice, the impugned order dt. 05.03.2020 of the Ld. Trial Court is set aside. It is ordered that the respondent /husband shall pay an interim maintenance of Rs.20,000/- pm (Rs. Twenty thousand only) to the appellant/wife, from the date of filing of the said petition/complaint till disposal of the said petition/complaint before the Ld. Trial Court. The interim maintenance amount shall be adjusted towards any amount of interim maintenance/maintenance awarded by any other court in any other matter between the parties. The respondent shall deposit the amount of interim maintenance in the bank account of the appellant-herein by 10th of each English calendar month. Accordingly, this appeal is allowed. Noting expressed hereinabove shall tantamount to an expression of opinion on the merits of the case. Trial Court record along with the copy of this Judgment be sent back to the Ld. Trial Court. Parties are directed to appear before Ld. Trial Court on 21.01.2021. Appeal file be consigned to Record Room."*

3. The aforesaid impugned order of the Appellate Court pertains to the award of interim maintenance, with the parties yet to lead evidence for the determination of the final maintenance amount in the Domestic Violence Petition. However, the Petitioner, being dissatisfied with the interim maintenance granted to the Respondent, has invoked the revisional jurisdiction of this Court to challenge the order passed by the Appellate

Court.

4. Counsel for the Petitioner argues that the impugned order is erroneous and has been passed in a mechanical manner, without appreciating the facts of the case. He contends that the Appellate Court has failed to take into consideration that the Respondent is employed with a multinational company, earning a salary exceeding INR 70,000/- per month. In support of this claim, he places reliance on the Respondent's statement made before the Trial Court on 29th February, 2020, wherein she acknowledged that her take home salary was INR 62,000/- per month.

5. He submits that in contrast, the Petitioner's salary is only INR 38,000/- per month. To substantiate this, the counsel places reliance on the Petitioner's income tax returns for the financial years 2019-2020 to 2023-2024. He submits that the Petitioner is employed as a 'Project Head' in "Interra Cognita Id Solutions", a proprietorship company, which belongs to his mother. He asserts that the Appellate Court has erroneously assumed the company's income to be that of the Petitioner. He clarifies that the Petitioner is not the proprietor of the company, but has been employed there since 2013, receiving a monthly salary of INR 38,000/-. Additionally, the Petitioner derives income from a consultancy business, the earnings from which are also reflected in the income tax returns. As per the returns, his total gross annual income is INR 4,62,000/-. These income tax returns, which clearly reflect the Petitioner's earnings, stand in stark contrast to the Respondent's admitted salary. He contends that this discrepancy, in the salaries of the parties, fails to justify the award of maintenance to the Respondent.

6. The Court has considered the aforenoted contentions. At the outset, it

must be noted that the Petitioner has asserted that he has been employed at the proprietorship company since 2013. The said company is owned by his own mother. In light of this claim, the fact that his salary has only increased from INR 13,000/- to INR 38,000/- by 2025 casts doubt on the credibility of his statement. This assertion must be evaluated in the context of several other factors that suggest the Petitioner may be concealing his actual income. In this regard, the Court has taken note of the matrimonial advertisement issued by the Petitioner, wherein he had declared his annual income to be between INR 50 to 70 lakhs.

7. On the other hand, it is noted that the Respondent is employed by a multinational company, and as such, her income is transparent and cannot be concealed. For the said reason, there seems to be a disparity between the disclosed income of the Petitioner and that of the Respondent. However, it is well-established law that, in matters of maintenance, Courts are entitled to pierce the façade that a party may construct in an attempt to conceal their actual income. It has been observed in numerous judgments that, in cases concerning maintenance, which involve matrimonial discord, there is a common tendency for parties to understate or conceal their actual income. In such situations, even Income Tax returns may not always provide an accurate representation of a party's true financial circumstances.[4] In such cases, where a party withholds crucial information, the Courts are entitled to draw an adverse presumption against that party, on the basis that had the information been disclosed, it would likely have been detrimental to their case.[5]

8. In this regard, the Appellate Court, after reviewing the evidence and

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[4] Kiran Tomar v. State of U.P. 2022 SCC OnLine SC 1539.

[5] Bharat Hegde v. Saroj Hegde, 2007 SCC OnLine Del 622.

considering the relevant facts, observed that the Petitioner was concealing his actual income and financial status. The Court took into account several contentions raised by the Respondent, including the Petitioner's declared annual income at the time of marriage, his position as the proprietor of Interra Cognita Id Solutions, the company's account balance and turnover (amounting to INR 2 to 5 Crores), as well as the Petitioner's account deposits and credit card payments. The Appellate Court also considered the Respondent's allegations that the Petitioner had obtained a factory license certificate as the authorized signatory of the company, and had applied for government tenders. After assessing these contentions and finding a significant discrepancy between the Petitioner's declared income in his tax returns and his actual income, the Appellate Court issued an order directing the Petitioner to pay interim maintenance of INR 20,000/- to the Respondent.

9. For the foregoing reasons, the Court is of the opinion that the Appellate Court appropriately considered the relevant facts and circumstances in awarding interim maintenance to the Respondent. The Court finds no arbitrariness, error, or perversity in the Appellate Court's decision that would justify any intervention by this Court.

10. Accordingly, the present petition is dismissed along with pending applications.

SANJEEV NARULA, J

JANUARY 29, 2025/ab