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

+ CRL.M.C. 5643/2019 & CRL.M.A. 39680/2019

RAJ KUMAR SAKLANI

.....Petitioner

Through: Mr. Satish Kumar, Advocate with
Petitioner in person

versus

STATE & ANR.

.....Respondents

Through: Mr. Mukesh Kumar, APP for State
Mr. Saurabh Kansal, Mr. Pratham
Malik, Mr. Raghav Vij, Advocates for
R-2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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17.07.2025

1. The present petition is directed against judgment dated 06th August, 2019, passed by the Sessions Court in an appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005.¹ By the said judgment, the Sessions Court set aside the findings of the Mahila Court and awarded maintenance of INR 10,000/- per month to Respondent No. 2 (Original Complainant), along with compensation of INR 5,00,000/- for alleged harassment and mental torture.
2. The record reflects that Respondent No. 2 had initially filed a petition before the Mahila Court seeking various reliefs under the DV Act, including maintenance, return of *stridhan*, alternate accommodation, loss of earnings, compensation, and protection orders. Upon considering the evidence led by

¹ "DV Act"



both parties, the Mahila Court, by a detailed order dated 13th July, 2016, rejected all the reliefs claimed by Respondent No. 2. The Mahila Court *inter alia* held that she had failed to establish her entitlement to alternate accommodation, *stridhan*, loss of earnings, or additional maintenance. It further observed that Respondent No. 2 had already been awarded maintenance under proceedings under Section 125 of the Code of Criminal Procedure, 1973² and Section 24 of the Hindu Marriage Act, 1955³ and found no independent basis for granting further relief under the DV Act. The relevant extract of the said order reads as follows:

“16. The marriage between the parties is riot disputed. It is also not disputed that there is one child and the child is in the custody of the respondent. The petitioner has sought various reliefs in the present suit.

1) She has sought the amount of Rs.5000/- as monthly rent for alternative accommodation for herself and for the child. The petitioner has stated in her cross examination that she is living in Flat no. GH 5 and 7/355, Paschim Vihar . New Delhi since 1995. She has also admitted that she lived with the respondent in the abovesaid property from 1995 till 2002. She has stated that abovesaid property belongs to her parents. She has admitted that her parents is residing in Faridabad. However, it is claimed by the respondent that he had purchased the abovesaid property. The onus is upon the petitioner to prove the capacity in which she is residing in the abovesaid property. However, petitioner has not placed on record any documents to show that the abovesaid property is being purchased by her parents. The petitioner has stated in her affidavit that the respondent left her company along with the child on 21st/22nd September, 2002. It is admitted fact that the child is residing with the respondent. However, the petitioner has sought the amount of Rs.5,000/- for alternative accommodations for herself and minor child. When she is not maintaining the minor child and is not in the custody of the minor child, then how come she claimed the amount for the minor child. It is clear that she has made wrong submissions before the court. She has tried to mislead the court. In view of the fact that she is already in the possession of an accommodation of which she could not prove the capacity in which she is residing and the fact that she has misled the court by claiming the amount of alternate accommodation for minor child knowing very well that minor child is not

² “Cr.P.C.”

³ “HMA”



residing with her, she is not entitled to the abovesaid relief.

2) She has sought the relief of return of her Stridhan articles. The petitioner has stated in her affidavit that her entire dowry items i.e Jewellery, furniture and utensils were remained with the respondent. She has stated that she had shifted in the rented accommodation with the respondent. Thereafter, she shifted to the above accommodation with the respondent. She has not filed any list of dowry articles. She has not led any evidence to prove that the dowry articles were given in her marriage by her parents. She has simply stated that entire dowry items i.e. Jewellery, furniture and utensils were left with in laws but she has not given description of any of the item. She has not placed on record any bill or any other document to show that the said items were belonging to her and were given in her marriage. A general allegations has been made and even the items as stated by her are unidentifiable as no description, photographs or bills have been filed. In view of the same, she is not entitled to the above said relief.

3. She has sought an amount of Rs. 10,13,351/- as loss of earning from the respondent. The petitioner has not proved as to how the above said amount has been calculated by her or how the respondent was responsible for the above said loss of earning. It is stated by the petitioner that she is M.Phil, B.Ed and was working as post-graduate teacher. Nowhere in her complaint or evidence, she has stated that she could not pursue her job or there was and- loss of earning to her due to the conduct of the respondent. In view of the same, she is not entitled do the above said relief.

4) She has sought the maintenance of Rs. 6000/- per month from the respondent. The petitioner has stated that she has already been awarded maintenance of Rs.2,500/- per month in proceedings under Section 125 Cr.P.C. She has also been awarded the interim maintenance of Rs.4500/- per month under Section 24 of H.M.A. The amount awarded in the petition under Section 125 Cr.P.C is adjustable in the interim maintenance awarded under Section 24 of H.M.A. Since, the maintenance has already been awarded to the petitioner, the petitioner is not entitled to the above said relief from this court.

5) She has sought the compensation of Rs. 5 lakhs and litigation of Rs. 22,000/-. On the basis of the above observations, the petitioner is not entitled to any compensation or litigation expenses.

6) She has sought the restraintment order against the Domestic Violence alleged to have been committed on her by the respondent. The petitioner has admitted that she is residing separately from the respondent. Since petitioner is residing separately from the respondent, no such restraintment order is warranted.”

3. Aggrieved by the rejection of her claims, Respondent No. 2 preferred an appeal before the Sessions Court. The appellate court, *vide* the impugned



judgment, allowed the appeal and granted maintenance of INR 10,000/- per month, in addition to awarding compensation of INR 5,00,000/- for alleged cruelty, mental harassment, and deprivation suffered by Respondent No. 2.

4. Aggrieved by the aforesaid appellate order, the Petitioner, (Respondent in the original complaint under the DV Act) has approached this Court by way of the present petition under Article 227 of the Constitution of India, 1950.

5. During the course of submissions, it was brought to the notice of this Court that the Petitioner is already paying a sum of INR 7,000/- per month to the Respondent as maintenance in parallel proceedings under the HMA. In compliance with this Court's directions, the Petitioner has filed an affidavit disclosing that his monthly income is INR 41,186/-. He has further stated that he is the sole caregiver for his 84-year-old mother, who is entirely dependent on him. Additionally, he has a 26-year-old son who, being currently unemployed, remains financially reliant on him.

6. Respondent No. 2, on the other hand states that she presently receives approximately INR 20,000/- per month as interest income from fixed deposit receipts held in her name. She also draws a monthly pension of INR 1,499/- from the Employees Provident Fund Organisation.⁴ Taking these amounts together, it appears that Respondent No. 2 presently has a steady monthly income of about INR 21,500/- independent of any maintenance awarded by the courts.

7. The Appellate Court, by the impugned order, reversed the findings of the Mahila Court, without engaging in a detailed analysis of the basis on which the maintenance or compensation amounts were quantified. The



relevant observations of the Appellate Court, extracted below, suggest that the decision proceeded largely on the premise that the Respondent's claims remained unrebutted in cross-examination:

"14. In the cross-examination, conducted on behalf of respondent, nothing has been suggested to the appellant that she was not entitled for maintenance of Rs. 10,000/- per month except suggesting that she has been granted maintenance in proceedings U/Sec. 125 Cr.P.C. and also U/Sec 24 of HMA Act so the claim of the appellant remained unrebutted demanding Rs. 10,000/- per month. Hence, the same is allowed from the date of filing of petition till she is legally entitled for the same excluding the amount for maintenance already received U/Sec. 125 Cr.P.C. and U/Sec.24 H.M. Act.

15. The Trial Court has also not given any reason as to why the appellant is not entitled for compensation and litigation expenses.

16. The appellant had claimed Rs.5 lacs for harassing, torturing and illegal dowry demand and abused with filthy language since the marriage by the respondent. Nothing has been suggested to her in the cross-examination that she was not harassed, tortured or illegal dowry demand were not raised in any manner. So, the claim of the appellant for compensation remained unrebutted. So, she is also entitled for this compensation. Same are the reasoning of this Court in respect of litigation expenses as claimed by the appellant of Rs.22,000/-, which have been disallowed by the Ld. Trial Court without any reason. Accordingly, this Court allows compensation of Rs.5 lacs and the litigation expenses to the tune of Rs.22,000/-.

17. With above observations and findings, the appeal of appellant is allowed on these two grounds, which were challenged.

18. The present appeal is disposed off.

19. Trial Court record be sent back to Court concerned alongwith copy of this order.

20. Appeal file be consigned to record room."

8. A careful examination of the impugned order reveals that the Appellate Court has reversed the well-reasoned findings of the Mahila Court without engaging in any meaningful analysis of the underlying evidence or legal standards governing grant of maintenance under the DV Act. The award of INR 10,000/- per month as maintenance and INR 5,00,000/- as

⁴ "EPFO"



compensation appears to rest solely on the ground that the Respondent's claims were not specifically denied in cross-examination. Such a mechanical approach fails to satisfy the requirement of judicial reasoning, especially where the Trial Court had declined relief on detailed appreciation of facts. The Appellate Court has not undertaken any assessment of the parties' comparative financial capacities or whether the conditions for compensation under Section 22 of the DV Act were met. This omission, in the considered view of this Court, vitiates the impugned order.

9. Accordingly, the impugned order dated 06th August, 2019 is set aside, and the matter is remanded to the Appellate Court for reconsideration afresh, in accordance with law. While undertaking this exercise, the Appellate Court shall take into consideration the affidavit of income and expenditure filed by the Petitioner before this Court pursuant to the order of this Court dated 01st July, 2025, as well as the affidavit filed by the Respondent in MAT.APP. 31/2010. Either party is at liberty to place copies of these affidavits before the Appellate Court. If so warranted, the Appellate Court may direct the parties to file fresh affidavits disclosing their current income, expenditure, assets, and liabilities. Such reconsideration shall be undertaken and concluded expeditiously, preferably within a period of eight weeks from the date of receipt of a copy of this order.

10. In view of the above, the present petition is disposed of along with pending application(s).

11. All rights and contentions of the parties are left open.

SANJEEV NARULA, J

JULY 17, 2025/ab