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

+ CRL.REV.P. 981/2023
ASLAM

.....Petitioner

Through: Mr. Manish Gupta, Adv.
with petitioner in person

versus

AYESHA RANI @ RANI& ANR.Respondents

Through: Mr. Salim Malik & Mr.
Shavana, Advs. with
Respondent No.1 and her
father in person

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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27.08.2024

CRL.M.A. 22471/2024(for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.REV.P. 981/2023, CRL.M.A. 25074/2023 (for stay) & CRL.M.A. 22470/2024 (for stay)

3. The present petition is filed under Sections 397/401 of the Code of Criminal Procedure, 1973 seeking setting aside of the order dated 11.07.2023 (hereafter '**impugned order**'), passed by the learned Family Court, in MT No. 11/2023.
4. The learned Family Court, by the impugned order, in a petition filed by respondent under Section 125 of the CrPC, awarded an interim maintenance of ₹16,500/- per month to the respondents, from the date of the filing of the application till the disposal of the maintenance petition.
5. The learned counsel for the petitioner submits that the petitioner is a government employee and he has disclosed his



correct income in the income affidavit, despite which, excessive maintenance has been awarded to the respondents.

6. He submits that the learned Family Court has ignored the fact that the petitioner is responsible for maintaining his sister and aged mother as well and left no unit of income for them in line with *Annurita Vohra v. Sandeep Vohra : 2004 SCC OnLine Del 192*.

7. He submits that the learned Trial Court has not appreciated that the petitioner is burdened with essential expenses like rent and monthly instalments of loan.

8. He submits that the respective amounts of ₹7,579/- and ₹6,110/- are being deducted towards the loans taken by the petitioner. He submits that the learned Trial Court has refused to read the bank statement of the petitioner.

9. He submits that the respondent is well qualified and is running a beauty parlour.

10. The learned counsel for the respondents submits that the expenses towards the loans and rent have been concocted to reduce the net income of the petitioner and the learned Trial Court has rightly not given any advantage of the same to the petitioner.

11. He submits that the father of the petitioner is a retired doctor and getting a handsome pension. He submits that the petitioner's father also got a substantial amount from the concerned department at the time of retirement and is running a private clinic. He submits that the petitioner and his father also have ancestral property in their village— Hastpur, District Hathras, Uttar Pradesh.

12. He submits that Respondent No. 1 is not working presently, and is completely dependent on her family for meeting



her expenses.

13. I have heard the learned counsel for the parties and perused the record.

14. A bare perusal of the affidavit of assets and liabilities of the petitioner indicates that his monthly income is ₹33,214/- per month. It is argued that the awarded interim maintenance is excessive as no share has been awarded to the dependent sister and mother of the petitioner. It is further contended that the learned Trial Court has not taken into account the expenses of the petitioner towards the rent and deductions towards the loans availed by him.

15. The petitioner in his income affidavit has not listed his mother as a dependant. The expense towards his younger sister is also stated to be ₹2,000/-. The learned Trial Court has rightly appreciated that it is not denied that the petitioner's father is getting a pension and he is a medical practitioner. It is not mentioned as to why despite the pension and income of the petitioner's father, his sister is listed as his dependent.

16. The petitioner has claimed that he pays around ₹9,500/- towards rent, however, he has placed no material on record apart from a rent agreement dated 10.12.2022 to substantiate that he is residing in the rented property and paying rent towards the same. The learned Trial Court has noted that the bank statements of the petitioner don't show even a single payment towards rent.

17. Insofar as the deductions towards the loans are concerned, the learned Trial Court has rightly taken into account that no evidence has been produced by the petitioner at this stage to establish that he has availed any loans. Even otherwise, it is relevant to note that the application for interim maintenance was filed right at the start of the month on 02.01.2023 and the loans



are also stated to have been availed by the petitioner in the month of January, 2023. While it is stated that the loans were taken to repay previous friendly loans, however, no particulars have been provided regarding the repayment of the friendly loans or the purpose for availing the same to substantiate the legitimacy of the contention.

18. It is common knowledge that parties embroiled in matrimonial conflicts tend to conceal their true income and overstate their expenses to receive a more favourable order. In such circumstances, at this stage, the possibility of the petitioner undermining his income to avoid paying maintenance of an appropriate amount to the respondents cannot be ruled out.

19. While it is contended by the petitioner that Respondent No.1 is qualified and running a beauty parlour, at this stage, no evidence has been filed which would show that Respondent No.1 is in a position to maintain herself.

20. The relationship between the parties is not denied. It is incumbent on the petitioner, who is an able-bodied man, to financially support the respondents. Even otherwise, the maintenance of ₹16,500/- per month to the wife and minor child, in the opinion of this Court, is not unreasonable at the interim stage when the petitioner is admittedly earning ₹33,000/- per month.

21. The defences raised by the petitioner, along with the allegations and counter allegations, would be the subject matter of the trial, and would have to be decided after the parties have led their evidence.

22. It is not disputed that the impugned order is only in relation to interim maintenance. The learned Trial Court would pass a final order in regard to maintenance after considering the



evidence on record.

23. In view of the above, this Court finds no reason to interfere with the impugned order.

24. The present petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

AUGUST 27, 2024