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Vijay Pal vs.shobha Devi

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Court : Delhi

Decided On : Sep-20-2019

Appellant : Vijay Pal

Respondent : Shobha Devi

Judgement :

IN THE HIGH COURT OF DELHI AT NEW DELHI CRL.REV.P. 802/2018 & CRL.M.A. 32227/2018 * Judgment Reserved :

18. 09.2019 Date of Decision :

20. 09.2019 IN THE MATTER OF: VIJAY PAL .....

... Petitioner
SHOBHA DEVI Through: Mr. Satish Chand, Advocate (Mobile No.9810449859) Versus Through: Ms. A. Banerjee, Advocate ..... Respondent CORAM: HON'BLE MR. JUSTICE MANOJ KUMAR OHRI The present revision petition has been filed on behalf of the 1. petitioner under Section 397 read with Section 482 Cr.P.C. assailing the order dated 02.08.2018, passed by the Judge, Family Courts (West), Tis Hazari Courts, Delhi in MT No.316/17.

2. The respondent Shobha Devi had filed an application under Section 125 Cr.PC before the Family Courts, seeking interim maintenance from the petitioner. The Judge, Family Courts, after considering the facts and circumstances, awarded a sum of Rs.7,500/- per month as interim maintenance to the respondent from the

date of filing of the petition, i.e., 21.07.2017.

3. Learned counsel for the petitioner submits that the petitioner is serving as Beldar in the Office of Assistant Engineer-II, Civil Division- Crl. Rev. P. 802/2018 Page 1 of 3 XII, Irrigation & Flood Control Department, Govt. of NCT of Delhi, Basai Darapur, Delhi. He further submits that the petitioner is already married to a lady, namely, Shakuntala and is residing with his family. He further submits that the petitioner has not solemnized any marriage with the respondent, though he used to visit the tea stall run by the respondent. It is further submitted that on account of friendly relations developed, the respondent has taken undue advantage and has filed the petition before the Family Courts seeking interim maintenance from the petitioner. He further submits that on some occasions, at the request of the respondent, the petitioner has also extended financial help to the respondent. He also submits that the respondent is a married lady, living with her family.

4. Learned counsel for the respondent, on the other hand, has submitted that the petitioner is married to the respondent, but has neglected to maintain her. It is submitted that the petitioner is earning handsome amount and though the interim maintenance @ Rs.15,000/- was prayed in the application, the Family Court has awarded a sum of Rs.7,500/-per month as interim maintenance to the respondent. On the factum of marriage between the parties, learned counsel for the respondent has filed copies of Aadhar Card of the respondent, in which the respondent is shown as wife of the petitioner; a police complaint dated 12.05.2017 filed by the respondent against the petitioner; photocopy of the opening page of joint account in the name of the petitioner and the respondent with SBI, Nangloi Jat Branch, Delhi and a photograph showing the parties together. She has submitted that after the marriage, the petitioner has lived with the respondent.

5. I have heard learned counsel for the parties and gone through the impugned order. Crl. Rev. P. 802/2018 Page 2 of 3 6. Along with the petition, the petitioner has filed his pay certificate for the month of August, 2018, which shows that his total monthly salary is Rs.45,772/- and after deductions, his net salary is Rs.27,492/-.

7. The Judge, Family Courts has taken the income of the petitioner @ Rs.30,000/- per month and granted one-fourth share of the salary to the respondent, i.e., Rs.7,500/- as interim maintenance. The factum of marriage of the petitioner with the respondent is a matter of trial.

8. In Lalita Toppo v. State of Jharkhand 2018 SCC Online SC2301and Badshah v. Urmila Badshah Godse and Anr. (2014) 1 SCC188 the Supreme Court has held that even an estranged wife or live-in-partner would be entitled for maintenance under Section 125 Cr.PC.

9. For the reasons stated above, I do find any infirmity or illegality in the impugned order passed by the Judge, Family Courts (West), Tis Hazari Courts, Delhi.

10. Consequently, the revision petition and the application are dismissed being devoid of any merits.

11. Copy of the order be sent to the Trial Court. (MANOJ KUMAR OHRI) JUDGE SEPTEMBER20h, 2019 dc Crl. Rev. P. 802/2018 Page 3 of 3

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