Rishi Kumar Vs. Suman

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Court : Delhi

Decided On : Jan-14-2008

Reported in : I(2008)DMC355

Judge : Pradeep Nandrajog, J.

Acts : Hindu Marriage Act, 1955 - Sections 24

Appeal No. : CM(M) No. 1440 of 2007

Appellant : Rishi Kumar

Respondent : Suman

Advocate for Def. : Geeta A. Kumar, Adv.

Advocate for Pet/Ap. : Dhananjay Pandey and; A.K. Pandey, Advs

Disposition : Petition dismissed

Judgement :

Pradeep Nandrajog, J.

1. Heard.

2. The petitioner and the respondent are bound by a matrimonial bond. Unfortunately, the marriage has turned sour. A petition for divorce is pending.

Respondent filed an application under Section 24 of the Hindu Marriage Act alleging that she had no income and that the petitioner was gainfully employed in automobile business being sole proprietor of a workshop M/s. New Milap Auto Engineering Works. She alleged that he was the only son of his parents. She stated that her husband was having an income of Rs. 50,000/- per month. She claimed maintenance in sum of Rs. 33,000/- per month.

3. Petitioner refuted each and every assertion made by the respondent. He stated that he was disbanded by his parents. He stated that he was carrying on business as a motor mechanic from a shop at Mangol Puri. He stated that he was earning between Rs. 75,000/- to Rs. 80,000/- per annum. He relied upon his income tax returns.

4. In rejoinder the wife pointed out the social and economic status of the two families when she got married. She pointed out that her parents spent lavishly at the wedding and even gave an Alto car to her husband. She pointed out that at the time of marriage apart from usual gifts, furniture to fill a drawing room, colour television, refrigerator, washing machine and other electrical gadgets were gifted by her parents. From the extent of dowry articles she wanted the Court to gather the economic status of the parties.

5. The wife succeeded.

6. Disbelieving the income tax returns of the husband and with reference to the dowry articles given at the time of marriage learned Judge has opined that the petitioner should give to the respondent a monthly maintenance of Rs. 10,000/-.

7. Learned Matrimonial Judge has noted various decision wherein it has been noted that income tax returns are not the true measure of the income of a spouse and that when divorce claims are made by parties some conjectures and guess-work is permitted when resorted to by the Court.

8. I note that the Hon'ble Supreme Court in its decision reported as : AIR 1997 SC3397 , Jasbir Kaur v. D.J. Dehradun upheld an order passed by a Court on guess-work.

9. Suffice would it be to state that in matrimonial disputes the income of every husband disappears even when in employment. It is noted that husband's resort to excessive deductions from their salaries. All kinds of loans are taken and monthly deductions are effected from their salaries.

10. In my opinion, the socio-economic background of the parties is a relevant consideration while determining the income of a respective spouse.

11. Maintaining a car would need at least Rs. 5,000/- per month on fuel, maintenance and insurance. A person who owns a refrigerator, a colour television, a washing machine, mixer grinder and other electrical and electronic appliances would obviously be using them.

12. Detergents used in washing machines are 30 times as expensive than ordinary washing soaps. Only a person with means would use an expensive detergent in a washing machine.

13. At the time when he got married, obviously, petitioner had a good income for the reason if he was earning a meagre sum of Rs. 6,000/- to Rs. 7,000/- per month, the girl's family would not have married their daughter to him.

14. The family of the bride and the groom come from a well-off strata of the society.

15. The wife would be entitled to the same standard of living to which she was used to when living with her husband. She would be entitled to use the same kind of electrical and electronic gadgets. Why should she be denied the use of a car?

16. I accordingly hold that the learned Trial Judge was justified in disbelieving the income tax returns produced by the petitioner. Learned Judge was justified in estimating the income of the petitioner with reference to the socio-economic background of the parties.

17. I have made a brief reference to the dowry articles given by the family of the bride at the time of the marriage. The same shows that the petitioner was having a matching social and economic status.

I find no merits in the petition. The same is dismissed. No costs.