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Raj Kumar Vs. Vijay Laxmi

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Court : Delhi

Decided On : Sep-13-2001

Reported in : 95(2002)DLT265; I(2002)DMC174; 2002(61)DRJ485

Judge : Mahmood Ali Khan, J.

Acts : Hindu Marriage Act - Sections 13(1) and 24

Appeal No. : C.R. No. 1198/2000

Appellant : Raj Kumar

Respondent : Vijay Laxmi

Advocate for Def. : S.C. Juneja, Adv.

Advocate for Pet/Ap. : S. Lal, Adv

Disposition : Petition disposed

Judgement :

Mahmood Ali Khan, J.

1. ADMIT.

2. Arguments were heard on the petition for final disposal on the request of counsel for the parties.

3. This revision petition is directed against an order of Additional District Judge, Delhi dated 8.9.2000 by which he has fixed interim maintenance of the respondent wife at the rate of Rs. 4000/- per month besides litigation expanses of Rs. 7000/- in a petition under Section 24 of Hindu Marriage Act.

4. Briefly stated the facts are that the parties were married on 28.4.1999 and lived together till 7.7.1999 when they separated. The petitioner husband filed a petition for divorce on the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act against the respondent wife. The respondent wife filed an application under Section 24 of Hindu Marriage Act for grant of interim maintenance @ 5000/- per month plus Rs. 2000/- per month as rent of the accommodation taken by her for her residence and Rs. 22,000/- as litigation expenses and a further amount of Rs. 20,000/- which she had taken as loan from her relative for her maintenance and expenses for the period from 7.7.1999 to 31.12.1999. In the application the respondent wife alleged that the petitioner is an Engineer and was working as Project Engineer with I.C.M. Engineering Private Limited, Gurgaon on a monthly salary of RS. 12,000/-. She herself was a house wife and non-working and had no income of her own. After the marriage the petitioner treated her with cruelty and had turned her out of the matrimonial home. According to her, her parents had spent about Rs. 5 lacs upon the marriage. Her parents had given the Maruti Car and Rs. 1,50,000/- in cash to the petitioner. After the marriage she was told by the petitioner that he had pre-marriage illicit relations with one Miss Bhavna Sharma which will not be given up and that she would have to bear with it.

5. Opposing the application the petitioner put counter blame on the respondent and stated that she had treated him with cruelty. He has denied that he had any illicit relations with Miss Bhavna Sharma. he admitted that he had a degree in Engineering but stated that he was working as Project Engineer on contract basis. he also stated that he had to maintain his old parents also. he denied that he had any income. He denied that the petitioner had borrowed any money form her relatives or that the petitioner had no income of her own to fall back upon.

6. Counsel for the petitioner has submitted that the respondent had treated the petitioner with cruelty and had deserted the petitioner barely three months after the

marriage. She lodged a complaint with National Commission for Women and thereafter she filed a complaint with Crime Against Women Cell at Nanakpura. Petitioner has been granted anticipatory bail with other members of his family after he paid Rs. 1 lac to the respondent in the court. It was further submitted that the petitioner was working as a Project Engineer on contract and that he received only Rs. 32,500/- for the period from 3.11.1998 to 31.10.1999 and now he was unemployed. An application for review of the order for interim maintenance filed before the Additional District Judge had been dismissed. Thereafter the petitioner on 26.9.2000 withdrew the divorce petition and it was dismissed as withdrawn. he argued that the order of the learned Additional District Judge was based on conjectures and surmises and it be set aside.

7. On the other hand, counsel for the respondent argued that the petitioner is a Graduate Engineer from Delhi College of Engineering and that he was working as a Project Engineer and that it is unbelievable that he was unemployed and was not earning at all. He further submitted that in the marriage ceremony one Maruti Car was given by the parents of the respondents which is now in the possession and use of the petitioner and that the petitioner could not maintain that car without any income. It is further stated that after the review application filed by the petitioner was dismissed the court had fixed the case for payment of the maintenance amount but instead of making the payment the petitioner filed an application for withdrawal of the divorce petition. The divorce petition was dismissed as withdrawn. But the respondent was entitled to recover the maintenance during the pendency of the divorce petition and she can also claim litigation expenses which she had to bear on the filing of the application for maintenance etc. It is submitted that the amount of maintenance and the litigation expenses fixed by the Court are reasonable and the revision petition deserves to be dismissed.

8. The income of the petitioner was in his special knowledge. he is a qualified Engineer. It is difficult to believe that he would be idle and unemployed and was not earning at all. The petitioner was working as a Project Engineer. He alleged that he worked there only for about 11 months and received a lumpsum of Rs. 32,500/- But he is an (SIC) able bodied man and a qualified Engineer. Though he says (SIC) that he had no source of income at all but he has not (SIC) explained

as to how he was maintaining himself and his (SIC) parents. His contention, thereforee, does not at all evince (SIC) confidence. On the other hand, the respondent has alleged (SIC) that she does not have any independent source of income. (SIC) Apart from denying this allegation the petitioner has not disclosed any fact which may suggest that the respondent had (SIC) income for her maintenance and support. The respondent has (SIC) alleged in the reply that he had paid a sum of Rs. 1 lac to the petitioner when he was granted anticipatory bail in the criminal case registered on the complaint of the respondent wife. The source for payment of the amount has not been disclosed. The source of money by which he is maintaining the car has also not been revealed by him. The trial court on the facts and the circumstances seems perfectly justified in assuming that petitioner had regular income as alleged by the respondent.

9. The rate of maintenance which is fixed at Rs. 4,000/- per month, and the litigation expenses, which is fixed at Rs. 7000/-, seems quite reasonable amount on the facts of this case.

10. For the reasons stated above, I do not find that the learned Additional District Judge has committed error of jurisdiction or material irregularity in the exercise of the jurisdiction warranting interference by this Court. The petition has no merit. It is dismissed. Parties are left to bear their own costs.

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