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

% *Date of decision: 11th October, 2023*

+ **MAT. APP.(F.C.) 78/2023**

[REDACTED]

..... Appellants

Through: Mr. Anuj Arora & Mr. Pardeep
Sharma, Advocates.

versus

[REDACTED]

..... Respondent

Through: Mr. Somvir Singh Deshwal, Advocate
with respondent appearing through
VC.

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+ **MAT. APP.(F.C.) 163/2023 & CM APPLs. 29823/2023, 29824/2023**

[REDACTED]

..... Appellant

Through: Mr. Somvir Singh Deshwal, Advocate
with respondent appearing through
VC.

versus

[REDACTED]

..... Respondents

Through: Mr. Anuj Arora & Mr. Pardeep
Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The aforesaid two appeals have been filed by the husband/Rinku Dahiya and wife/Anju respectively against the Order dated 23.02.2023



dismissing the application under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as “Act”), whereby the husband/ Shri Rinku Dahiya has been directed to pay Rs.40,000/- per month towards the maintenance of the child while the maintenance to the wife Anju has been declined. The husband has sought reduction in the maintenance amount while the wife has claimed a maintenance in the sum of Rs.2 lakh for herself and enhancement of maintenance from Rs.40,000/- per month to Rs.60,000/- per month for the child.

2. The parties got married on 06.07.2014 and one son was born from the said wedlock on 24.06.2016. The parties developed difference and separated in February, 2020

3. A Divorce petition was filed by the wife Smt. Anju seeking divorce. She also filed an application under **Section 24 of the Act** seeking *interim maintenance*. Admittedly, the appellant/ wife is having a degree of B.Sc and MBA (Banking and Finance) and is presently working with Mamta Project Pvt. Ltd. (Head of Credit and Product), Gurugram, Haryana drawing a salary of Rs.2.5 lac per month. She claimed that she was paying Rs.92,940/- per month as EMI for the loan taken for a flat and Rs.25,137/- per month as EMI towards car loan. From the meagre income which is left thereafter, she is barely able to manage and provide reasonable facility to her child whose all the educational and other overhead expenses are being borne by her. The husband was earlier transferring Rs.20,000/- to Rs.30,000/- per month towards the expense of the child, but he has stopped paying this amount since November, 2021. The appellant/ wife therefore, claimed a maintenance of Rs.2 lakhs for herself and Rs.60,000/- for the child and



Rs.50,000/- towards litigation expenses.

4. The respondent/ husband is equally qualified holding a degree of B.Tech and M.Tech and was working in Global Logic, Noida at the time of marriage. Admittedly, he is presently working with Wal-Mart Associates, Inc. and earning USD 7134 which is equivalent to Rs.5,60,000/- per month. He has explained in his affidavit of Assets and Liabilities that he has monthly expenditure of about USD 7092. He barely has sufficient income to meet his own personal expenses. He admitted that he has stopped paying Rs.20,000 – 30,000/- per month which he had been paying for the education of the child since November, 2021, but has asserted that he was compelled to do so as the appellant/ wife has withdrawn herself from the matrimonial relationship.

5. **Learned Judge, Family Court** considered the respective income and expenditure of the parties and held that the wife is equally qualified and earning and was thus held not entitled to any maintenance. However, Rs.40,000/- per month was directed to be paid by the husband towards the interim maintenance and expenses of the child.

6. The appellant/ wife, aggrieved by the impugned Order, has filed Appeal No.78/2023 seeking enhancement of maintenance for the child to Rs.60,000/- per month and also interim maintenance for herself.

7. The respondent/ husband aggrieved by grant of maintenance in the sum of Rs.40,000/- per month to the child has filed Appeal No.163/2023 and sought its reduction to a total amount of Rs.21,500/- per month, out of which he be liable for paying only half of the amount i.e. Rs.10,750/- per month.

8. The respondent/ husband has explained that as per the PPP (Purchase



Power Parity) Index published by World Bank, the dollar cannot be converted into Rupees at the prevailing exchange rate. The dollar has to be multiplied with PPP conversion factor which is Rs.23.22 for India. The salary of the respondent i.e. USD 7134 when multiplied by 23.22 comes to Rs.1,65,651/- per month, which is much less than the income of the wife which is Rs.2.5 lakhs per month. It is asserted that the interim maintenance granted to the child is liable to be reduced.

9. Submissions heard from learned Counsels for both the parties and record perused.

10. Admittedly, the appellant/ wife as well as the husband are highly qualified and the wife is getting Rs.2.5 lakhs per month while the husband is getting USD 7134 per month which if converted to Indian rupee by applying PPP (Purchase Power Parity) Index, comes to Rs.1,65,651/- per month or if simple exchange rate is applied; it is otherwise equivalent to Rs.5,60,000/-. Though the husband may be earning in dollars, but it cannot be overlooked that his expenditure is also in dollars. He has explained that he has a monthly expense of about USD 7000 and is left with little money for saving. His calculations are duly supported by the documents.

11. We observe that in the present case, where both the spouses are equally qualified and are earning equally, interim maintenance cannot be granted to the wife under Section 24 of the Act. The object of Section 24 of the Act is to ensure that during the matrimonial proceedings under HMA either party should not be handicapped and suffer any financial disability to litigate only because of paucity of source of income. The provision for interim/ *pendent lite* maintenance has been made only to help either spouse



to sail through the litigation expenses and also to ensure that they are able to live comfortably. The proceedings under Section 24 of the Act are not intended to equalize the income of both the spouses or to give an interim maintenance which is commensurate to maintain a similar life style as the other spouse as has been observed by this Court in the case of K.N. vs. R.G MAT. APP.(FC) 93/2018 decided on 12.02.2019.

12. Learned Judge, Family Court after considering the respective income and expenditure of the parties, held that the wife is equally qualified and earning and has thus, rightly denied any maintenance to her.

13. During the course of the arguments, the wife had explained that the monthly expenditure of the child is about Rs.40,000-50,000/- per month.

14. Considering the income of the wife and the husband and also appreciating that the responsibility of maintaining the child has to be shared jointly by both the husband and the wife, we find that the interim maintenance in the sum of Rs.40,000/- for the child is liable to be reduced to Rs.25,000/- per month.

15. Both the appeals are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 11, 2023

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