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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decided on: 16th March, 2022

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MAT. APP. (F.C.) 311/2019

GURPREET DHARIWAL

.....Appellant

Represented by: Mr. Harpreet Singh & Mr. Gagan
Singhal, Advocates.

versus

AMIT JAIN

..... Respondent

Represented by:

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

NEENA BANSAL KRISHNA, J. (ORAL)

CM APPL. 52194/2019 (Delay of 21 days in filing appeal)

1. By this application, the appellant seeks condonation of 21 days' delay in filing the appeal.
2. For the reasons stated in the application, delay of 21 days in filing the appeal is condoned.
3. Application is disposed of.

MAT. APP. (F.C.) 311/2019

1. Ms. Gurpreet Dhariwal (*hereinafter referred to as 'appellant'*) aggrieved by the order dated 23rd September, 2019 in HMA No. 1358/2017, vide which the learned Principal Judge, Family Court (South), Delhi has declined to grant *pendente lite* interim maintenance claimed in the sum of Rs. 75,000/- per month besides litigation expenses at the rate of Rs. 2 lakhs under Section 24 of the Hindu Marriage Act, 1955 (*hereinafter referred to*

as 'the Act, 1955'), has preferred this appeal under Section 19 of the Family Courts Act.

2. A divorce petition under Section 13 (1) (ia) of the Act, 1955 has been filed by the respondent Amit Jain against the appellant for grant of divorce on the ground of cruelty. The appellant preferred an application under Section 24 of the Act, 1955, claiming interim maintenance in the sum of Rs. 75,000/- per month, beside Rs. 2 lakhs as the litigation expenses.

3. Factual background leading to present litigation is that the parties got married on 09.11.2015 as per Vedic Rites in an Arya Samaj Mandir, Rajinder Market, Delhi, after being in a relationship for a period of three years. The appellant has claimed that she was subjected to harassment and torture on account of dowry since the very first day of marriage. It is claimed that on 09th December, 2017, when she came back to her matrimonial home from Bengaluru, she was shocked to see that the respondent had left the home where they were residing together. The respondent refused to join appellant's company despite repeated requests and persuasions, instead he threatened her with dire consequences. The appellant has claimed that she was deserted by the respondent without making any provision for her day-to-day expenses, mess, medicines etc.

4. The appellant has asserted that she is well-qualified and was working in a Company but was compelled to leave her job in September, 2017 because of provocation, insistence and pressure from the respondent and his mother who wanted the appellant to perform kitchen and other household chores. It is claimed by the appellant that the respondent used his good standing in the market and through his contacts with the appellant's employer; he got her turned out of her job. Thereafter, the appellant tried to

get another job but has not been successful since she has got the title of 'dismissed employee'. It is further claimed that she has no independent income and is totally dependent upon the mercy of her father.

5. It is further claimed that the respondent is working with M/s Silverbucks Consultant Pvt. Ltd. as a Manager and is earning a huge amount of money. The respondent has moveable and immoveable assets worth crores of rupees in the name of his family members and himself, which generate rental income. He is leading a lavish and luxurious lifestyle and spends extravagantly on himself and his parents and relatives. However, the respondent is intentionally and deliberately neglecting to discharge his legal and moral obligation of maintaining the appellant.

6. The appellant had sought *pendente lite* maintenance at the rate of Rs. 75,000/- per month, besides litigation expenses amounting to Rs. 2 lakhs.

7. The respondent contested the application by filing a detailed reply. It was explained by him that the appellant was working with EXL where she was drawing a salary of Rs. 38,000/- per month. The appellant voluntarily relieved herself from her employment on 30th September, 2017 by submitting a letter to her employer, claiming that her mother-in-law was not permitting her to continue with the job. This claim of the appellant that she had left the job at the insistence of the respondent's mother who desired her to do household chores is totally incorrect which is borne out from the fact that she left the house in August, 2016 and has been living separately from her in-laws and there was no interference of the family members of the respondent in the life of the appellant. The respondent further claims that on 03rd October, 2016, the appellant filed a police complaint falsely implicating the respondent and his family members and that the appellant left the job on

her own for the reason that the appellant had planned to go abroad for further studies and the reasons claimed by the appellant are concocted, false and an after-thought. Further, it is stated by the respondent that the appellant had cleared IELTS in December, 2017.

8. The respondent has asserted that the appellant was working since 2014 till September, 2017 and is having sufficient assets to maintain herself. It is claimed that the appellant is not entitled to any maintenance/litigation expenses.

9. Learned Principal Judge, Family Court, vide the impugned order, observed that the appellant was highly qualified, having done her MCA, PGDM and was admittedly working till 30th September, 2017. A lady having capacity to work cannot be allowed to sit idle and be a burden on her husband for demanding maintenance and litigation expenses. It was concluded that the appellant can very well earn and support herself and declined to grant any maintenance under Section 24 of the Act, 1955.

10. Aggrieved by the impugned Order, the present appeal has been preferred by the appellant.

11. Learned counsel on behalf of the appellant has argued that she was subjected to extreme harassment and cruelty by the respondent-husband and his family members and was compelled to leave her job. She is a qualified lady but despite her efforts to get new job as reflected in various e-mails, she was unable to get any suitable job. She has been intermittently working for the last two years but she has no constant source of income and she is, therefore, entitled to maintenance.

12. Learned counsel on behalf of the respondent has submitted that the appellant had left the job voluntarily as she had intended to go abroad for

her further studies. She is highly qualified and has intentionally not taken a job to put a burden on the respondent. The maintenance has been rightly denied for the reasons explained in the impugned order which does not suffer from any infirmity and the appeal is liable to be dismissed.

13. Submissions heard. The appellant has claimed that she was compelled to leave her job in September, 2017 by her mother-in-law as is clearly mentioned in her resignation application to the Company. At the same time, she has claimed that her husband had used his influence with the employer of the Company to get her terminated. The respondent while denying these assertions has explained that the Appellant had left in August, 2016 and had made a police complaint against him and his family members in October, 2016 and there was no occasion for them to compel the appellant to resign from her job in September, 2017. According to the respondent, she resigned from her job as she intended to travel abroad for further studies. Also, she qualified IELTS examination in 2017.

14. Learned Principal Judge has rightly concluded that the claim of the appellant that she was compelled to leave the job does not inspire confidence.

15. It is an admitted position that the appellant was working from 2014 to 2017. It is also admitted and also reflected in her Affidavit of Assets that she is MCA, PGDM while the respondent is BCA i.e. less qualified than the appellant. The appellant has claimed that she has made sincere efforts to get a job and had sent her resume through naukri.com but has not succeeded in getting a job. Her qualifications and experience are well reflected in her resume on Naukri.com, wherein she has mentioned as under:

From: Gurpreet Kaur <dgurpreetk.86@gmail.com>

Sent: Mon, 30 Jul 2018 01:45:16

To: career@megmaservices.co.in

Subject: 3 star applicant – Naukri.com-EA to Director, null, null, 8 years 00 months, Delhi, 6.0

Job Title

EA to Director

Receiving applies matching 3 star(s) and above Modify Filters

Gurpreet Kaur s s s s s (3/5)

I have resigned from EXL in 2017 and searching for Transition, Executive Assistant, Project Management and Content Head role. I have been to US on the Project Management role twice i.e. Oregon and South Carolina. I have experience of more than 8 years in different streams of work and I am ready to work in the US Shift. I have US Visa and it is valid for 10 years. Any travel opportunity given would be considered as an added feather in my hat.

View Attached CV

Key Skills Transition Management, Documentation, Business Transition, Process Transition, Train the Trainer, Executive Management, Client Servicing, Content Management, Blog Writing, Presentation Skills, Business Process Mapping, MS Visio, Business Analysis.

16. The *resume* itself reflects her qualifications, expertise and vast work experience. The appellant has placed reliance on an e-mail dated 13th August, 2018 addressed to ‘varun.sharma@evolvevapors.com’, wherein the appellant has disclosed her current CTC to be Rs. 7.2 lakhs and expecting CTC of Rs. 8.5 lakhs. The appellant was getting a CTC of Rs. 6 lakhs working in 2016, while in this e-mail she has indicated her current CTC to be Rs. 7.2 lakhs.

17. She has also annexed various e-mails of December, 2018 reflecting that she had received various job offers from various Companies. The appellant's qualifications and documents show that she is a competent and educated lady, who had various options to take up a job and in fact, she has been intermittently working as has been fairly conceded by learned counsel for the appellant. It is quite evident that she has been working as a freelancer and has also been working elsewhere but has not disclosed complete facts in her affidavit of income. Furthermore, the subsequent events about her work have also not been disclosed in the present appeal.

18. In the decision reported as 2016 (234) DLT 693 Rupali Gupta vs. Rajat Gupta, this Court observed that a very qualified spouse having the earning capacity but desirous of remaining idle cannot set up a claim for interim maintenance. Likewise, in Crl. Rev. P 344/2011 titled as Damanpreet Kaur vs. Indermeet Juneja, decided by this Court on 14.05.2012, it was observed that a well-educated woman who was working even after her marriage but chooses to resign after separation despite having the capacity to work cannot be granted interim maintenance.

19. In the decision reported as 2000 (3) M.P.L.J. 100 Mamta vs. Rajesh, the High Court of Madhya Pradesh deprecated in strong words the tendency of a wife to remain idle despite being capable of supporting herself merely to claim *pendente lite* maintenance.

20. Trite it is to observe that it is no answer to deny the claim of maintenance to the wife who is educated and can support herself as observed by the Hon'ble Supreme Court in the decision reported as (2017) 15 SCC 801 Manish Jain v. Akanksha Jain. However, the facts in hand are distinguishable since it is not shown that she is not having means to

financially support herself. Not only is she much more qualified than the respondent but she has even been working even if intermittently as is borne out from her documents and also from submissions of the learned counsel for the appellant. The impugned Order of learned Principal Judge, Family Court, does not suffer from any infirmity in denying the interim maintenance to the appellant.

21. The appeal is dismissed in the aforesaid terms.

CM APPL. 52192/2019 (Stay)

1. In view of the order passed in the appeal, the application is disposed of as infructuous.

**(NEENA BANSAL KRISHNA)
JUDGE**

**(MUKTA GUPTA)
JUDGE**

MARCH 16, 2022
S.Sharma