



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

% ***Reserved on: August 10, 2023***

Pronounced on: October 09, 2023

+ MAT.APP.(F.C.) 133/2022 & CM APPL. 3439/2023

SUNNY BEDI ALIAS RAJBIR BEDI Appellant
Through: In person with Mr. Rahul Raj Verma
& Mr. Shivom Garg, Advocates

Versus

HARPREET SINGH Respondent
Through: In person with Advocate (appearance
not given)

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT

SURESH KUMAR KAIT, J

1. The present appeal under Section 28 of the Hindu Marriage Act, 1955 has been filed by the appellant-husband against the judgment and order dated 18.04.2022 passed by the learned Principal Judge, Family Court, New Delhi whereby he has been directed to pay interim maintenance of Rs.20,000/- per month to respondent-wife from the date of filing of the petition being HMA No.399/2019 titled as "*Harpreet Kaur Vs. Sunny Bedi @ Rajbir Bedi*", till disposal of the case on merits.

2. The facts giving rise to the present appeal are that the parties to the present petition got married on 09.04.2014 as per Hindu Rites and



ceremonies. Prior to their marriage, they were known to each other having been met in Gold Gym in the year 2010. On 11.10.2011, the appellant met with a serious accident due to which he lost his leg. During his hospitalization, respondent used to visit him in the hospital. According to the appellant in the year 2014, respondent pressurized him to marry her. Accordingly, parties got engaged on 02.02.2014 and their marriage was solemnised on 09.04.2014. The appellant has alleged that the respondent had not disclosed her family members about appellant's disability and upon coming to know on the day of marriage, they pressurized her to break the marriage and start a new life. However, respondent calmed the appellant and trust the almighty and convinced him that she will take care of everything.

3. After their marriage, parties shifted to a rented apartment near the home of the parents of the appellant. The appellant has alleged that respondent was very well aware that he was handicapped and was only son of his parents, however, respondent on one pretext or the other, used to fight with him and other family members. With the passage of time, the relations between the appellant and respondent turned worse. On 08.06.2015, respondent left the appellant to fend himself in the rented apartment and thereafter never turned back to her matrimonial home. Due to this, the appellant claims to have suffered great shock and again met with an accident on 24.06.2016 and remained hospitalized in Batra Hospital till 12.07.2016. However, the respondent never ever visited him even in such critical condition.

4. On 30.05.2019, respondent filed a divorce petition under Section 13 (1) (i-a) & (i-b) of the Hindu Marriage Act, 1955. During pendency of the said petition, respondent filed an application under Section 24 of the Act MAT.APP.(F.C.) 133/2022



claiming interim maintenance from the appellant-husband. The aforesaid application under Section 24 of the Act was decided by the learned Family Court vide impugned order dated 18.04.2022 *inter alia* holding as under:

“Accordingly, keeping in view the status of parties, their respective needs, capacity of the non applicant/husband to pay, his own expenses, his liabilities and also keeping in view the facts and circumstances of the case, the application under section 24 of HMA filed by the petitioner is disposed of, thereby directing the respondent to pay a sum of Rs. 20,000/- per month to the petitioner from the date of filing of the petition till the disposal of the case on merits. The respondent/husband is directed to clear the arrears of maintenance within 3 months from today in equal installments and to pay the monthly maintenance after the date of orders by way of money order or by deposit in the bank account of the petitioner on furnishing the account number of the same by or before 10th date of each calendar month. It is further made clear that as per settled Law, the petitioner shall be entitled to receive the maintenance to the highest amount the various allowances, if any, awarded to her by various courts.”

5. The aforesaid order dated 18.04.2022 passed by the learned Family Court has been assailed in the present appeal by the appellant-husband on the ground that while passing the impugned order, the learned trial court has ignored the fact that the marriage between the parties was love marriage and prior to their marriage, respondent was very well aware of the fact that the appellant was handicapped; he is the only son of his old aged parents and also without job.



6. During the course of hearing, learned counsel appearing on behalf of the appellant submitted that appellant being handicapped had no personal source of income even at the time of his marriage and he later on joined business of his father. Learned counsel further submitted that it was the respondent who had persuaded the appellant to marry her and that the appellant had always performed his marital obligation despite his poor health conditions. It was next submitted that in the divorce petition filed by the respondent-wife, no specific incidence of cruelty has been narrated by the respondent. Learned counsel also submitted that the learned trial court has ignored the fact that respondent is a BBA Graduate and was working as a teacher prior to the marriage and even after their marriage, she joined Manav Rachna International School, Charmwood, Faridabad.

7. Learned counsel for the appellant also submitted that learned Family Court has ignored the fact that appellant has no source of income and for his livelihood, he is dependent on his father's business and has to spend a huge amount on his medical treatment. Hence, setting aside of the impugned order dated 18.04.2022 is sought.

8. To the contrary, learned counsel appearing on behalf of the respondent-wife submitted that the impugned order passed by the learned trial court under the provisions of Section 24 of the Act is well-merited and calls for no interference by this Court.

9. The submissions advanced by both the sides were heard at length and the impugned order dated 18.04.2022 as well as trial court record has been perused by this Court.

10. The challenge to the impugned order dated 18.04.2022 by the



appellant primarily is on the ground that the learned Family Court has failed to observe that he is handicapped and for making his living and expenditures, including medical expenses, he is dependent upon father's business, who had suffered huge loss due to Covid-19 pandemic and also that appellant has no source of independent income, whereas the respondent is working as a Teacher in a private school.

11. Apparently, the learned Family Court while awarding interim maintenance of Rs.20,000/- per month to the respondent had categorically noted that appellant had though suffered an accident but no permanent disability certificate was placed on record nor any particulars of the school were furnished where respondent was allegedly teaching. The appellant has pleaded before this Court that respondent is working in a school and has intentionally concealed her income in order to extract money from him.

12. To substantiate his assertions made in the present appeal, the appellant has placed before this Court copy of certificate, "Person with Disability Registration" issued by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India wherein it is mentioned that appellant is suffering from "locomotor disability" in his left leg and heel.

13. The appellant has also placed on record copy of Discharge Summary dated 12.07.2017 issued from Batra Hospital and Medical Research Centre, where appellant remained admitted pursuant to the injuries sustained in the accident occurred on 24.06.2016. Besides, appellant has also placed on record copies of medical prescriptions issued by Batra Hospital and Medical Research Centre and Jai Prakash Narayan Apex Trauma Centre between the



period from 2016 till 2018 have also been placed on record.

14. The appellant has also placed on record a copy of Offer of Appointment letter dated 09.02.2015 issued by Manav Rachna International School Charmwood, Faridabad, to show that respondent was offered Rs.25,000/- per month as salary.

15. On perusal of material placed before this Court we find that parties were known to each other since the year 2010 and prior to marriage between the parties, the appellant met with an accident on 11.10.2011 and suffered multiple injuries, which fact was well within the knowledge of respondent at the time of marriage with the appellant on 09.04.2014. The copies of various medical prescriptions shows follow up treatment of appellant. It is admitted position that since 08.06.2015 the respondent has been living separately in her parents' house. Both sides have accused each other of cruelties at the hand of the other and admitted that their marriage has utterly failed. However, for adjudication of an application under Section 24 of the Hindu Marriage Act, 1955, the Court is only required to ensure that *pendente lite* financial support is provided to the applicant, without going into the merits of the case.

16. The Hon'ble Supreme Court in ***Manish Jain Vs. Akanksha Jain (2017) 15 SCC 801*** has held as under:-

“12. The Court exercises a wide discretion in the matter of granting alimony pendente lite but the discretion is judicial and neither arbitrary nor capricious. It is to be guided on sound principles of matrimonial law and to be exercised within the ambit of the provisions of the Act and having regard to the object of the Act. The Court would not be in a position to judge the merits of the rival



contentions of the parties when deciding an application for interim alimony and would not allow its discretion to be fettered by the nature of the allegations made by them and would not examine the merits of the case. Section 24 of the HM Act lays down that in arriving at the quantum of interim maintenance to be paid by one spouse to another, the Court must have regard to the appellant's own income and the income of the respondent.

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15. *Section 24 of the HM Act empowers the court in any proceeding under the Act, if it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of any one of them order the other party to pay to the petitioner the expenses of the proceeding and monthly maintenance as may seem to be reasonable during the proceeding, having regard to also the income of both the applicant and the respondent. Heading of Section 24 of the Act is “Maintenance pendente lite and expenses of proceedings”. The section, however, does not use the word “maintenance”; but the word “support” can be interpreted to mean as Section 24 is intended to provide for maintenance pendente lite.*

16. *An order for maintenance pendente lite or for costs of the proceedings is conditional on the circumstance that the wife or husband who makes a claim for the same has no independent income sufficient for her or his support or to meet the necessary expenses of the proceeding. It is no*



answer to a claim of maintenance that the wife is educated and could support herself. Likewise, the financial position of the wife's parents is also immaterial. The court must take into consideration the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent income sufficient for her or his support. Maintenance is always dependent upon factual situation; the court should, therefore, mould the claim for maintenance determining the quantum based on various factors brought before the court.”

17. In the present case, both sides had placed on record affidavits in respect of Income and Expenditure before Family Court in terms of Supreme Court's decision in **Rajnish Vs. Neha (Supra)**. According to appellant, he is B.Com (Pass) Graduate; residing with parents; has monthly expenses of Rs.25,000/- per month including medical expenses; unemployed; has no source of income and permanently disabled. As per affidavit filed by the respondent, she is a BBA Graduate; has no source of income; not employed; residing in parents' house and has monthly expenditure of Rs.50,000/-.

18. Relevantly, appellant has claimed that his father is running a business and being disabled, he is completely dependent upon his father. He has also placed on record copies Income Tax Returns, Bank Statements and Statement of Profit and Loss Account in respect of his father's account/business to substantiate his claim. The stand of respondent while claiming interim maintenance from appellant is no different, as she has also asserted that appellant has joined his father's business and is earning Rs.2,00,00/- per



month. Though the appellant in his affidavit before the learned trial court has claimed that he has no income at all.

19. Further, the copy of Offer of Appointment letter issued by Manav Rachna International School Charmwood, Faridabad, relied upon by the appellant is dated 09.02.2015 i.e. when parties were living together and respondent had started working after marriage at Faridabad. It is undisputed fact that since June, 2015 respondent has been living with her parents and is dependent upon them for her livelihood.

20. With regard to assessment of claim of interim maintenance to the spouse, the Hon'ble Supreme Court in **Rajnish Vs. Neha** (2021) 2 SCC 324, has observed as under:-

“63. At present, the issue of interim maintenance is decided on the basis of pleadings, where some amount of guesswork or rough estimation takes place, so as to make a prima facie assessment of the amount to be awarded. It is often seen that both parties submit scanty material, do not disclose the correct details, and suppress vital information, which makes it difficult for the Family Courts to make an objective assessment for grant of interim maintenance. While there is a tendency on the part of the wife to exaggerate her needs, there is a corresponding tendency by the husband to conceal his actual income.”

21. In the present case, it is undisputed that appellant has suffered physical disability in his leg, however, it cannot be presumed that he is not earning at all. The appellant has placed on record Income Tax Returns, Bank Statements and Statement of Profit and Loss Account in respect of his father's account/ business, which shows he has access to his father's



business and is involved in it. The appellant, who is the only son, living with his parents and due to separation; the respondent has been forced to live with her parents. In the considered opinion of this Court, the learned Family Court in the facts of the present case, has rightly awarded maintenance of Rs.20,000/- per month to the respondent to enable her to meet her routine requirements. Finding no ground to interfere in the impugned order dated 18.04.2022, the present appeal is accordingly dismissed.

22. During pendency of the present appeal, vide order dated 18.05.2023, the operation of the impugned order dated 18.04.2022 was stayed by this Court. The appellant is directed to comply with the directions enumerated in Para-9 of the impugned order dated 18.04.2022 within four weeks.

23. With directions as aforesaid, the present appeal and pending application are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 09, 2023

ab/r