



2024:DHC:5376-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 03.07.2024

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MAT.APP.(F.C.) 172/2024

SH SUSHIL KUMAR

.....Appellant

Through: Mr Amrendra Kumar Choubey,
Advocate.

versus

SMT ARCHANA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL)

CM 30198/2024

1. Allowed, subject to just exceptions.

CM 30200/2024 *[Application filed on behalf of the appellant seeking condonation of delay of 05 days in filing the appeal]*

2. This application has been filed on behalf of the appellant seeking condonation of delay of (5) days in filing the appeal.

3. Having regard to the period involved, we are inclined to condone the delay.

3.1. It is ordered accordingly.

4. The application is, accordingly, closed.

MAT.APP.(F.C.) 172/2024 & CM 30199/2024

5. This appeal is directed against the judgment and order dated 20.02.2024 passed by the learned Judge, Family Court, North, Rohini, Delhi,



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in an application preferred by the respondent, i.e., the wife, under Section 24 of The Hindu Marriage Act, 1955 [in short, “HMA”].

6. The record shows that the marriage between the couple was solemnized on 08.11.2019 and that they have been living separately since 08.07.2020.

7. The record also discloses that from the matrimony, the couple has a male-child who was born on 20.08.2020 and is in the custody of the respondent/wife.

8. The Family Court has, after examining the record, fixed interim maintenance payable by the appellant, i.e., the husband, to the respondent/wife at the rate of Rs.10,000/- per month payable from the date of filing of the application till disposal of the divorce petition.

9. Besides this, the Family Court also directed that the appellant/husband would pay monthly interim maintenance before the 10th day of each calendar month. Arrears are required to be liquidated by the appellant/husband within three (3) months.

10. Counsel for the appellant/husband, i.e., Mr Amrendra Kumar Choubey, says that, at present, the appellant/husband is working with an entity named CBN Multimedia Pvt. Ltd. [CBN] and is drawing a remuneration of Rs.12,000/- per month.

11. It is not in dispute that the appellant/husband is a graduate and appears to have left the job where, admittedly, he was earning a salary of Rs.75,000/- per month. The appellant/husband, concededly, gave up his previous employment with the entity named M/s Communique in March 2022.



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12. The record discloses that the appellant/husband entered into a ‘Professional Services Agreement’ [hereafter referred to as “PSA”] dated 01.08.2023 with CBN. A perusal of the PSA shows that it terminated with efflux of time on 31.03.2024.

12.1 Significantly, upon Mr Amrendra Kumar Choubey being queried as to where the appellant/husband was currently employed, we were informed that he continues in the employment of CBN.

13. The counsel, however, did not bring to our notice any document which would either show that the appellant/husband had entered into a fresh PSA with CBN or that the tenure of the earlier PSA had been extended by an addendum.

14. If what Mr Choubey submitted before us was correct, the other possibility that comes to the fore is that there was an oral agreement between the appellant/husband and CBN.

15. The PSA which is on record shows that the appellant/husband was engaged as a Freelance Editor for creating content at the approved rates. Annexure-II appended to the PSA shows that the appellant/husband was engaged as an independent contractor by CBN and was to be paid at the following rates:

RATE CARD FY 24

Task	Rate (Amount)
Church Choir Song Edit	Rs.2000/- Per Song
Segment Edit with Graphics (After Effects)	Rs.2500/- Per Segment

16. These circumstances are suggestive of the fact that the appellant/husband is either gainfully employed or, in the very least, has the



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ability to earn reasonable remuneration given his professional skills.

17. Having regard to the PSA, the submission made before us by Mr Choubey on behalf of the appellant/husband, that he received a salary of Rs.12,000/- per month from CBN does not appear to be correct.

18. It seems incredulous that the appellant/husband would accept an assignment that would bring down his remuneration from Rs.75,000/- per month, which he received from M/s Communique up until March 2022, to Rs.12,000/- per month. The PSA placed on record is suggestive of the fact that the remuneration the appellant/husband received from CBN was based on assignments executed by him as per the approved rate.

19. As alluded to above, the appellant/husband has the ability to earn money given his professional skills. It seems to be a case where the appellant/husband, to punish the respondent/wife, has deliberately degraded his ability to earn reasonable remuneration.

20. Thus, taking a holistic view of the matter, and given the fact that the respondent/wife has to take care not only of herself but also a child who is of tender age, we are not inclined to interfere with the impugned judgment and order.

21. The appeal is, accordingly, dismissed.

22. Consequently, CM 30199/2024 shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

JULY 3, 2024/rt