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Date: 24/10/2025

Pramod Kumar Vs Sunita

Cm No. 4933 of 2010 and Mat.App. 96 of 2007

Court: Delhi High Court

Date of Decision: Feb. 22, 2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) â€" Section 125#Hindu Marriage Act, 1955 â€" Section 24

Citation: (2012) 3 AD 603

Hon'ble Judges: Veena Birbal, J

Bench: Single Bench

Advocate: Mohit Gupta and Ms. Vidhi Gupta, for the Appellant; Deepak Thukral, along with respondent in person., for the Respondent

Judgement

Veena Birbal, J.

Present is an application u/s 24 of Hindu Marriage Act, 1955 filed in aforesaid Matrimonial Appeal of non-applicant/

husband challenging impugned judgment dated 08.09.2006, by which his divorce petition has been dismissed. The aforesaid application is dated

12.03.2010 and prayer is made for grant of maintenance pendente lite and litigation expenses during the pendency of the appeal. The

Applicant/wife has stated in her application that non-applicant/husband is working in Delhi Police as a "Head Constable" and is getting salary of

Rs. 21,000/- p.m. She has stated that he is also having rental income and is also running a milk dairy, etc. which is his joint family business. As per

her, the total earnings of husband are Rs. 70,000/- p.m. By way of this application, she is claiming Rs. 20,000/- p.m. as maintenance for herself as

well as for her minor child who is of 15 years of age and is studying in Class VIII in a school at Noida. It is stated in the application that she has to

spend around Rs. 3,000/- p.m. on the education of her son. Reply is filed by the non-applicant/husband wherein it is stated that during the pendency of divorce petition Rs. 2,500/- maintenance pendente lite was awarded to the applicant/wife. Thereafter, wife has also moved an

application u/s 125 Cr.P.C. wherein Rs. 4,500/- is awarded to her towards maintenance for herself and the child. It is also stated that husband has

the liability to look after his old aged parents. He has denied having any other source of income as is alleged by the wife apart from the salary. His

salary certificate is also placed on record. I have heard counsel for the parties and perused the record.

2. Nothing has been placed on record by the applicant/wife to substantiate the earnings of husband i.e. from rental or family dairy business as is

alleged. There is a salary certificate on record of applicant/husband for the month of July, 2010 and September, 2010 as per which his gross salary

is Rs. 23,329/- p.m. There is a deduction of Rs. 11,000/- p.m. towards GPF contribution which is on higher side and as it is a voluntary deduction

husband can''t claim benefit of entire deduction. With the passage of time his salary has increased further. Learned counsel for non-

applicant/husband has fairly conceded that his present salary after deductions is Rs. 25,000/- p.m. and has offered a sum of Rs. 7,000/- p.m.

towards maintenance pendente lite to wife and the child to which the counsel for applicant/wife has conceded. Considering the salary of the

husband, the aforesaid amount is reasonable and proper. Accordingly, the maintenance pendente lite of the applicant/wife and child is fixed at Rs.

7,000/- p.m. from the date of application i.e. 12.03.2010. Besides this, she is also entitled to litigation expenses of Rs. 10,000/-. The maintenance

of Rs. 7,000/- shall be inclusive of the maintenance amount which she is getting for herself and the child i.e. Rs. 4,500/- under the proceedings of

Section 125 Cr.P.C. Appellant is directed to clear the arrears within four weeks from today.

4. The application stands disposed of. MAT. APP. 96/2007 List on 26.07.2012.