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

+ CRL.REV.P. 67/2019 & CRL.M.A. 7429/2020

RAHUL RAJ

..... Petitioner

Through: Ms Kamini Jaiswal, senior advocate
with Mr Abhimanue Shrestha,
Advocate.

versus

DEEPTI AGGARWAL

..... Respondent

Through: Mr Jatan Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.06.2020

[Hearing held through video conferencing]

1. After some arguments, Mr Jatan Singh, learned counsel appearing for the respondent states that the learned Magistrate had also examined the Domestic Incidents Report (DIR) for the purpose of awarding interim compensation which is not on record. He further submits that final hearing ought not be proceeded with until the lower court record has been requisitioned and considered. The above contention appears merited.
2. In view of the above, the Registry is directed to requisition the trial court record and place a bookmarked and digitised copy of the same on record before the next date of hearing.
3. Ms Jaiswal, learned senior counsel appearing for the petitioner submits that the petitioner finding it extremely difficult to pay the interim maintenance as awarded by the learned Magistrate in the current situation.

He is no longer employed with Axis Bank Ltd. and the business that he has joined is struggling. She drew the attention of this Court to the order passed by the learned Magistrate and contended that the same does not record any reasons as to award of the maintenance. It also does not refer to any incident of domestic violence or any loss suffered by the respondent pursuant thereto. She also points out that prior to filing of the present petition, the respondent had shifted from Bombay to her parents house and there are no allegations of any domestic violence during the period of one year preceeding filing of the said petition.

4. In addition, she submits that the respondent had filed the application seeking maintenance/compensation only for the minor children as at the material time she was gainfully employed. However, during the proceedings, she had merely handed over a copy of her resignation letter and had submitted that she had resigned from her employment without amending the complaint or filing any pleadings to the said effect. The same was accepted by the court without affording the petitioner any opportunity to contest the same.

5. She further points out that the respondent is professionally qualified and has been employed. She had also moved an application for shifting into the flat in Bombay and one of the grounds urged by her was she would have better employment opportunities. She submitted that this indicates that the respondent is fully capable of earning and, therefore, does not require of any maintenance. She further submitted that the respondent had sought for maintenance on the ground that she requires to live independent of her parents and the court had awarded maintenance on the said premise. However, the respondent has not shifted out from her parental home and

continues to reside there while receiving the interim maintenance as awarded.

6. The respondent has already received approximately ₹44 lakhs pursuant to the interim order (which is subject to final adjustment). The respondent was regularly receiving a sum of ₹1 lakh per month till March, 2020.

7. Mr Singh, contends that the order passed by the learned Magistrate cannot be modified to reduce the amount of interim maintainance as this Court has no jurisdiction to modify any order passed by the learned Magistrate. He also states that even though learned Magistrate was not required to give any reasons for awarding the interim maintenance; his reference of domestic violence in the complaint filed by the respondent and the DIR are sufficient reasons for awarding the interim maintenance. He further states that merely because the respondent is capable of employment, does not in any manner disentitle her for claiming maintenance/compensation.

8. The contention that this Court does not have the jurisdiction to modify the quantum of interim maintainance is, prima facie, without merit. In any event this Court can, indisputably, modify the conditions on which this Court had passed the order staying the the ipugned order.

9. Considering the above and considering the petitioner's assertion that he is no longer in employment of Axis Bank and has now joined a Startup, which is struggling; this Court considers it apposite to modify the order dated 18.01.2019 and relax the conditions on which the impugned order was stayed. In partial modification of the said order, the impugned order is

stayed subject to the petitioner paying monthly maintenance of ₹50,000/- to the respondent from March, 2020 onwards.

10. List on 23.07.2020.

11. In the meanwhile, learned counsel for the parties shall submit a short note of their submissions not exceeding three pages each.

JUNE 30, 2020
MK

VIBHU BAKHRU, J