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

+ **CRL.REV.P. 1246/2024**

UMESH S

.....Petitioner

Through: Ms. Geeta Luthra , Senior Advocate
via video-conferencing with Ms.
Kamakshi Gupta and Mr. Manas
Gupta, Advocates.

versus

PRITI S

.....Respondent

Through: Mr. Mudit Jain, Advocate via video-
conferencing, Ms. Garima Singh, Mr.
Harshita Dixit, Ms. Kanishka Bhati,
Advocates along with Respondent.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **14.11.2024**

CRL.M.A. 34243/2024

By way of the present application filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the respondent seeks vacation of order dated 29.10.2024, by which order notice was issued to the respondent in the revision petition calling for her response; and in the meantime, the court had passed the following order:

“On a prima-facie view of the matter, and subject to the respondent being able to continue to reside in the farmhouse where she is presently living; and subject to the petitioner continuing to pay to the respondent Rs. 3.30 lacs per month, as referred to above, the effect and operation of order dated 14.02.2024 passed by the learned Metropolitan Magistrate, Mahila Court, Patiala House District Courts, New Delhi as well as of order dated 09.09.2024, passed by the learned Additional Sessions Judge, Patiala House



District Courts, New Delhi, shall remain stayed, till the next date of hearing before this court.

(emphasis supplied)

2. Mr. Mudit Jain, learned counsel appearing for the respondent/applicant submits that the court was misled into passing the aforesaid order, inasmuch as the court was not informed that petitioner is part of the family that owns the 'Hyatt' and the 'Yak and Yeti' group of hotels and his income is far higher than the fixed salary of about Rs.16 lacs as was represented. It is further submitted that the court was also misled into believing that the sum of Rs.3.30 lacs per month, which the petitioner pays to the respondent towards household expenses, is *money available at the respondent's disposal*, since the position is that from that sum of money the respondent bears *all* expenses towards the running and upkeep of the household, including expenses for food, clothing etc., as well as towards staff salaries, staff uniform etc., which leaves almost no balance in the respondent's hands.
3. In this behalf, attention is drawn to para 7 of order dated 29.10.2024, which reads as under:

"Be that as it may, it is submitted that as of now, the petitioner, the respondent, and their 02 children are living in the same farmhouse; and therefore, the petitioner is bearing all expenses towards upkeep, maintenance and other amenities and facilities available in the farmhouse, as also towards all household expenses; and the petitioner is also continuing to pay to the respondent the sum of Rs.3.30 lacs, as referred to above."

(emphasis supplied)

4. Mr. Jain argues that the representation made on behalf of the petitioner, as recorded in para 7 of order dated 29.10.2024 above, was false since



the petitioner is not bearing expenses towards upkeep, maintenance and other amenities and facilities available in the farmhouse, which are being paid for by the respondent from the sum of Rs. 3.30 lacs that she gets every month from the respondent; and since the order has been obtained based on misrepresentations made before the court, the order deserves to be vacated.

5. Issue notice.
6. Ms. Kamakshi Gupta, learned counsel appears for the petitioner on advance copy; accepts notice; and seeks time to file reply.
7. Let reply to the application be filed within 06 weeks; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.
8. Other things apart, a plain reading of para 7 of order dated 29.10.2024 shows that the order proceeded on the basis that “*the petitioner is bearing all expenses towards upkeep, maintenance and other amenities and facilities available in the farmhouse, as also towards all household expenses*”, meaning thereby that the sum of Rs.3.30 lacs which was being paid by the petitioner to respondent prior to the passing of the impugned order, *was money in the hands of the respondent* and was not to be applied towards upkeep, maintenance and other amenities and facilities available in the farmhouse.
9. In the circumstances, it is clarified that order dated 29.10.2024 shall operate as a stay of impugned orders dated 14.02.2024 and 09.09.2024 *only if* the petitioner continues to pay and defray *all expenses towards upkeep, maintenance and other amenities and facilities in the farmhouse* where the respondent resides along with her



two children, *including* expenses towards staff salaries, food for the staff, expenses for running the household, routine repairs and maintenance of the building as well as gardens, and towards all other heads of maintenance and upkeep of the farmhouse and other *non-personal expenses* of the respondent.

10. It is clarified that the above enumeration is not exhaustive and will be considered further at the time of deciding the present application.
11. Re-notify on 4th February 2025, the date already fixed.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 14, 2024/ss