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Delhi District Court

Kirti Sharma vs Kapil Parashar & Ors. on 3 November, 2014

Author: Ms. Shilpi Jain

CC No. 15/3

Kirti Sharma vs Kapil Parashar & Ors.

03.11.2014

Present: Ld. Counsel for complainant.
Respondent with Ld. Counsel.

1. Vide this order this court shall decide application for interim maintenance moved on behalf of petitioner thereby demanding interim maintenance to the tune of Rs. 50,000/ per month from the respondent / husband.

2. It is admitted fact that marriage between the complainant and respondent no. 1 was solemnized on 11.05.2011 according to Hindu rites and ceremonies at UP. It is alleged by the complainant /wife that parents of the complainant spent a lot on her marriage but despite that respondent / husband was not happy with the dowry brought by the complainant being insufficient and that is why respondent caused extreme physical, mental, verbal, emotional and economic torture to the complainant and at present complainant and respondent are residing separately. On 07.10.11, complainant in order to save her life took her all certificates, few clothings and reached at her friends place at Ghaziabad but respondent / husband contacted the complainant on phone and gave threat of dire consequences and called up parents of the complainant and started abusing them on 12.10.11. On 25.10.11 complainant finally decided to not to go back to ..2..

respondent no. 1 at matrimonial home and she decided to stay at Delhi because of the threats and harassment caused by the respondents.

3. During the course of arguments it is submitted on behalf of complainant that she is claiming interim maintenance to the tune of Rs. 50,000/ PM from respondent / husband though she is employed and earning an amount of Rs. 21,200/ PM but the same is not sufficient for her maintenance. It is also submitted that respondent is earning an amount of Rs. 1,40,000/ PM as per his own income affidavit.

4. On the other hand, it is submitted on behalf of respondent in his reply that complaint filed by the complainant is false and frivolous and no dowry demand has ever been made by the respondents. It is further submitted that the car which was gifted by the parents of the complainant had already been taken by the complainant alongwith her. It is also submitted that on 29.8.14 respondents contract got terminated and income of Rs. 1.40 lacs has ended. During the course of arguments it is also submitted that complainant and respondent both are qualified Doctors and therefore for the aforesaid reasons, complainant's application for interim maintenance be dismissed with cost.

5. I have heard the arguments addressed on behalf of both the parties and perused the record carefully.

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6. Perusal of income affidavit filed on behalf of complainant and respondent no. 1 reveals that both are well qualified doctors as complainant is having professional qualification of DDS and MBA and respondent is having professional qualification of MBBS, M.Ph and PGDE. Delhi High court has categorically held in Judgment titled Sanjay Bhardwaj & Ors. Vs State & Anr, 2010 IV AD (CRL) (DHC) 481 (HIGH COURT OF DELHI) CRL. M.C.NO. 491/2009 "We are living in an era of equality of sexes. The constitution provide equal treatment to be given irrespective of sex, caste and creed. An unemployed husband, who is holding an MBA decree, cannot be treated differently to an unemployed wife, who is also holding an MBA decree. Since both are on equal putting one cannot be asked to maintain other unless one is employed and other is not employed. " Hon'ble High Court further held that "no law provides that a husband has to maintain a wife, living separately from him, irrespective of the fact whether he earns or not. Court cannot tell the husband that he should beg, borrow or steal but give maintenance to the wife, more so when the husband and wife are almost equally qualified and almost equally capable of earning. "

7. In the case in hand also both husband and wife are equally qualified doctors having qualifications of BDS, MBBS etc and admittedly complainant is earning an amount of Rs. 21,200/ PM at present and she has also received an amount of Rs. 51000/ from her previous employer and as per income affidavit of respondent he was ..4..

employed on contract basis and his contract had already ended. In these circumstances when complainant and respondents are equally qualified and complainant herself is employed as well as in view of aforesaid judgment, complainant is not entitled to any kind of interim maintenance at this stage from the respondent / husband and her application stands dismissed accordingly.

8. Put up for CE on 06.01.2015.

(SHILPI JAIN) MM (MAHILA COURT) ROHINI/DELHI/03.11.14