

\$~R-211

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

Date of Decision: August 03, 2015

+ CRL.M.C. 1612/2014
SACHIN JAIN

..... Petitioner

Through: Mr. Siddharth Pandit & Mr. Aakar
Bhardwaj, Advocates

versus

STATE & ANR.

.... Respondents

Through: Mr.Karan Singh, Additional Public
Prosecutor for respondent-State
Mr. Amit Rao & Mr.
N.K.Chaudhary, Advocates for
Respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

%

(ORAL)

In proceedings under *Protection of Women from Domestic Violence Act, 2005*, trial court vide order of 20th September, 2013 has fixed the interim maintenance @ ₹8,000/- p.m. for respondent-wife and the child aged about 6 years, who is said to be studying in Class-I. Revisional Court vide impugned order of 14th March, 2014 has maintained the aforesaid trial court's order by observing that petitioner herein has not placed any document showing that he had resigned from service nor he has placed on record any salary certificate. However, it is noticed in the impugned order that petitioner's bank statement reveals that his salary was around ₹11,000/- p.m. At the hearing, learned counsel for petitioner had drawn the attention of this Court to petitioner's salary slip as well as resignation letter and had submitted that the gross salary of petitioner was

₹11,000/- p.m. and petitioner had to resign due to matrimonial dispute. During the course of hearing, it was submitted on behalf of petitioner that grant of interim maintenance ought to be reasonable one.

Learned counsel for respondent-wife had supported the impugned orders and had submitted that there is no illegality in the orders as petitioner is an able bodied person, who is duty bound to maintain respondent-wife and child.

Upon hearing and having considered the submissions advanced by both the sides and on perusal of the impugned orders and the material on record, I find that the interim maintenance assessed by the Courts below appears to be on higher side. There is no strict formula to award a particular percentage of the husband's income and each case must be determined according to its own circumstances. The law has to operate in a flexible and elastic manner to do complete justice between the parties. Even if it is taken that the earning capacity of petitioner is about ₹11,000/- p.m., this Court is of the considered opinion that 50% of the monthly income would be a reasonable amount to be awarded to the respondent-wife and minor child.

In the facts and circumstances of this case, impugned orders are modified to the extent that petitioner shall pay monthly maintenance of ₹5,500/- to respondent-wife and minor child from the date of application.

This petition is accordingly disposed of while refraining to comment upon merits of this case.

(SUNIL GAUR)
JUDGE

AUGUST 03, 2015

vn