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

% Judgment delivered on: 03.04.2019

+ CRL.REV.P. 389/2019

ASHOK KUMAR PASI Petitioner

versus

STATE & ANR. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. L.K. Passi with Mr. N.M. Rajesh, Advocates.

For the Respondent : Ms. Kusum Dhalla, APP for the State.
ASI Ashok Kumar, PS Timar Pur.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.6995/2019 (exemption)

Exemption is allowed subject to all just exceptions.

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1. The petitioner impugns order dated 28.02.2019, whereby, interim maintenance of Rs.15,000/- per month has been granted to the respondent.

2. Petitioner has been working as a Manager in Canara Bank and

admittedly has a monthly income of Rs.60,000/-.

3. Respondent, in the petition, filed before the Trial Court, has contended that though she is registered as an advocate, she is not practicing and is preparing for judiciary examination. She has contended that she has a monthly expenditure of Rs.50,000/-, which is being borne by her father and brother.

4. Learned counsel for the petitioner submits that the respondent is duly qualified and has incorrectly stated that she is not working. He submits that she was registered as an advocate even prior to the marriage with the petitioner and has been practicing thereafter. He further submits that income of the father and brother taken together is about Rs.21,000/-, so her affidavit that she is spending Rs.50,000/- per month is not believable rather would go on to show that she is maintaining herself by earning herself.

5. The present impugned order is only an order fixing interim maintenance. Whether the respondent is employed or not or has other source of income or not will be tested at trial. The mere fact that the respondent is qualified and registered as an advocate does not *ipso facto* imply that she is practicing as an advocate and earning.

6. As per learned counsel for the petitioner, respondent was registered with Uttar Pradesh Bar Council. As per the case of the petitioner, respondent along with her husband resided for few days at

District Azamgarh and thereafter at Pune wherefrom she separated. The fact that the respondent had been shifting her place of residence would *prima facie* show that she might not be in a position to practice as an advocate. No material has been placed on record by the petitioner to show that she is working as an advocate. In any eventuality, petitioner has been given an opportunity to establish his defence at trial.

7. Admittedly, the petitioner's monthly income is Rs.60,000/- and the interim maintenance awarded is Rs.15,000/- per month. In that view of the matter, the impugned order does not warrant any interference.

8. The Petition has no merit and is, accordingly, dismissed.

9. It would be open to the petitioner to seek vacation/modification of the order of interim maintenance in case petitioner is able to establish that the respondent has other sources of income.

10. Order *Dasti* under signatures of the Court Master.

APRIL 3, 2019
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SANJEEV SACHDEVA, J