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

% **Date of Decision: 24th July, 2025**

+ **CM(M) 1023/2025 & CM APPL. 33550/2025 & CM APPL. 33551/2025**

SAURABH BEHAL

.....Petitioner

Through: **Mr. Manmohan Kumar and Mr. J.S. Matta, Advocates.**

versus

AARUSHI SACHDEVA

.....Respondent

Through: **Mr. K.P. Singh and Mr. Vikrant, Advocates along with respondent in person.**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. When the present petition was taken up by this Court on 10.07.2025, the following order was passed:-

"1. Petitioner is defending a divorce petition filed by his wife.

2. A cost of Rs. 10,000/- was imposed upon him on 16.01.2025, which he did not clear. He, rather, moved an application seeking recall of PW-1 and PW-2, albeit, under a wrong provision.

3. The impugned order dated 20.03.2025 would indicate that he refused to make the payment of the cost unless his subsequent application seeking recall was allowed.

4. While declining such request, the court further imposed a cost of Rs. 10,000/- upon him with the direction that, in case, the cost was not paid, his right to lead evidence would also be closed.

5. Since the cost remained unpaid, his right to lead evidence also stands closed.



6. *Such orders are under challenge.*

7. *On 05.06.2025, there was no appearance from the side of respondent and the matter has now been adjourned to 26.07.2025 by learned Trial Court.*

8. *Learned counsel for petitioner feels apologetic for the observations about the conduct of the petitioner as appearing in order dated 20.03.2025 and, without prejudice to his rights and contentions, submits that the unpaid cost of Rs. 20,000/- shall be cleared within one week from today.*

9. *Let it be done.*

10. *It may either be transmitted through online banking channel, in case, the petitioner is having the requisite details or in alternate, he would move appropriate application before the learned Trial Court in this regard within one week.*

11. *Issue notice through all permissible modes as also through counsel, returnable on 24.07.2025.”*

2. Pursuant to the abovesaid order, notice was issued and respondent has appeared along with her counsel.
3. When asked from Mr. Manmohan Kumar, learned counsel for the petitioner, whether the cost had been duly paid, he apprised that since the petitioner was not having the details of the bank account of his wife, he moved an application before the learned Trial Court.
4. During course of the arguments, he was asked to show copy of such application and the contents of such application, somehow, goes contrary to the undertaking which had been given by Mr. Kumar, learned counsel for petitioner, before this Court on the last date of hearing.
5. As already noticed above, on the last of date, learned counsel for the petitioner, had, while tendering apology for the conduct of the petitioner, also volunteered to clear the cost of Rs.20,000/- within one week.
6. However, despite such specific assurance made before this Court,



when the application was moved before the learned Trial Court it was, *inter alia*, with the prayer that such cost be waived. Undoubtedly, he also sought details of the bank account of his wife but fact remains, that his prime prayer in the abovesaid application was seeking waiver of the cost.

7. This is really intriguing.

8. When a specific statement had been made before this Court and this Court had also shown indulgence and compassion to the petitioner, instead of making the payment within stipulated period, the petitioner has rather sought waiver of the cost which is certainly not in good taste.

9. Even today, learned counsel for the petitioner submits that petitioner has been able to arrange only part of the cost.

10. In view of above, it will be appropriate to decide the petition on merits.

11. Let me, therefore, switch to the impugned order dated 20.03.2025.

12. Admittedly, prior to such order, cost of Rs. 10,000/- has been imposed upon the petitioner, *vide* order dated 16.01.2025.

13. The respondent herein has filed a petition seeking divorce petition on the ground of cruelty, and during trial, she entered into witness box as PW-1 and her brother was examined as PW-2.

14. These witnesses were though cross-examined, petitioner moved an application seeking their recalling for further cross-examination.

15. Interestingly, though the case was Civil in nature, the application was moved under wrong provision of law i.e. under Section 311 Cr.P.C.

16. When such error was pointed out, the counsel for respondent sought time to amend the application and, eventually, the abovesaid matter was taken up by the learned Trial Court on 20.03.2025.

17. The conduct of the petitioner-Mr. Saurabh Behal, is clearly reflected in



the impugned order itself as he appeared through *video conferencing* and submitted that he would pay the previously imposed cost only if his application moved under Section 311 Cr.P.C. was to be allowed by the Court.

18. The abovesaid application was, resisted by the opposite side while contending that he was making mockery of the system and was merely interested in harassing the petitioner (respondent herein) and delaying the proceedings, on one pretext or the other.

19. It is not a case where there is no cross-examination.

20. On the contrary, PW-1 had earlier been cross-examined at length on 04.06.2024, 03.07.2024 and 04.07.2024.

21. As far as PW-2-Mr. Sahil Sachdeva is concerned, he was cross-examined on 04.07.2024 and was, thereafter, discharged.

22. Evidently, the witnesses in question were earlier cross-examined by him and it is not a case where the testimony of these two witnesses is lying un rebutted and uncontroverted, resulting in any serious prejudice to him.

23. It becomes quite apparent that the petitioner has no *bona fide* intention to participate in the proceedings, in right earnest. His only endeavour is to delay the proceedings, on one pretext or the other.

24. His own conduct has requested in denial of opportunity to him to lead his evidence.

25. Therefore, the order passed by learned Trial Court does not call for any interference on merits, even if we disregard the conduct of the petitioner, who, point blank, stated before the learned Trial Court that he would pay the unpaid cost only if his application was allowed and the manner in which the subsequent application has been filed by him before the learned Trial Court, seeking waiver of cost.



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26. In view of the above, this court is of the considered opinion that petitioner cannot be given any further opportunity to cross-examine PW-1 and PW-2. However, in the interest of justice, at the same time, he is granted one effective opportunity to enter into witness box in his defence.

27. The present petition is, accordingly, disposed of in aforesaid terms.

28. The pending applications also stand disposed of.

(MANOJ JAIN)
JUDGE

JULY 24, 2025/ss/pb