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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE RAJENDRA KUMAR-IV**

ON THE 22nd OF MARCH, 2024

MISC. PETITION No. 1652 of 2024

BETWEEN:-

**PRADEEP MISHRA S/O SHRI DEVENDRA MISHRA,
AGED ABOUT 32 YEARS, R/O GRAM LAHCHOORA
TEHSIL GOHAD DISTRICT BHIND (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI B.S. .GOUR - ADVOCATE)

AND

**SMT. MOHINI D/O SHRI SURESH UPADHYAY W/O SHRI
PRADEEP MISHRA, AGED ABOUT 29 YEARS, R/O GRAM
SEETARAM COLONY SWAMI HOSPITAL WALI GALI,
GOLA KA MANDIR, DISTRICT GWALIOR (MADHYA
PRADESH)**

.....RESPONDENT

.....
*This petition coming on for admission this day, the court passed the
following:*

ORDER

Petitioner has filed this petition under Article 227 of the Constitution of India challenging the order dated 21.2.2024 passed by Additional Judge, Gohad to the Court of First Additional District and Sessions Judge in Case No.111/2023 HMA titled as Pradeep vs. Mohini.

2. Brief facts as depicted in the order that petitioner moved a petition under Section 13 of Hindu Marriage Act against the respondent to dissolve the marriage dated 2.3.2015 between the parties in which an application under Section 24 of Hindu Marriage Act filed by the respondent alleging that husband

and other family members have started torturing her in demand of additional dowry of Rs.5,00,000/- while her father has given a considerable dowry at the time of marriage. When in compliance of decree under Section 9 of Hindu Marriage Act, she went to reside in the petitioner's house, they threw out of his house and threatened to kill her. She claimed interim maintenance and other expenses to contest the litigation.

3. Heard learned counsel for the petitioner.

4. Learned counsel for the petitioner mainly submits that the petitioner had filed a case under Section 9 of Hindu Marriage Act for restitution of conjugal rights which came to be decreed against the respondent but despite the decree of restitution of conjugal rights, she is not ready to live with him. She never came to the house of the petitioner to perform her matrimonial obligations. He further submits that the Trial Court without taking into consideration the fact of restitution of conjugal rights decree and she is not ready to perform her obligation, passed the order granting interim maintenance in favour of the respondent.

5. None for the petitioner as petition is being disposed of at the admission stage.

6. Learned Lower Court in its impugned order returned its finding that the petitioner has filed a suit against his wife for dissolution of marriage under Section 13 of Hindu Marriage Act. Lower Court considered the decree under Section 9 of Hindu Marriage Act but found that she is living separately voluntarily or she has been thrown out of house by the petitioner, is the subject matter of evidence. Lower Court granted Rs.2,000/- per month as interim maintenance but Court has not considered the litigation cost.

7. Admittedly, respondent is wife of petitioner and petitioner is the duty bound and has legal obligation to maintain his wife. Respondent has no sufficient means to maintain herself and she is living separately. Lower Court has not taken into account the standard of living of the respondent and passed the order of interim maintenance miserly.

8. It is very difficult for a woman to survive for one month with the so small amount of money. Court also did not consider the litigation expenses how the respondent would be able to contest the case. Court adopted a miserly approach in granting interim maintenance. It appears that the impugned order deserves to be modified to the extent of interim maintenance and litigation expenses.

9. In view of above, petition is **disposed of**, modifying the interim maintenance to the tune of Rs.5,000/- per month in place of Rs.2,000/- per month. Petitioner shall also pay Rs.10,000/- to the respondent for one time litigation expenses. However, it is further provided that learned Lower Court shall decide the case expeditiously and preferably, outer limit of which shall be one year.

10. Office to certify this order to the Lower Court for strict compliance forthwith.

(RAJENDRA KUMAR-IV)
JUDGE

(alok)