

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26<sup>TH</sup> DAY OF APRIL 2018

BEFORE

THE HON'BLE MR. JUSTICE RAGHVENDRA S. CHAUHAN

WRIT PETITION No.9158/2018 (GM-FC)

BETWEEN:

SRI GAURAV RAJ JAIN,  
S/O. MUKESH JAIN,  
AGED ABOUT 37 YEARS,  
R/AT NO.103, SREE UTOPIA APARTMENT,  
OUTER RING ROAD, KADUBEESANAHALLI,  
BENGALURU-560 103.

... PETITIONER

(BY SRI FAYAZ SAB B. G., ADVOCATE)

AND:

SMT. SHWETA JAIN,  
D/O. SRI MUKESH JAIN,  
W/O. GAURAV RAJ JAIN,  
AGED ABOUT 34 YEARS,  
R/AT MAHALKA WALE, PARAS NATH NAGAR,  
OPPOSITE INCOME TAX OFFICE,  
G. T. ROAD, KHATAULI,  
MUZAFFAR NAGAR DISTRICT,  
UTTAR PRADESH-251 201.

... RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO THE CASE OF THE PETITIONER, QUASH THE IMPIGNED ORDER DATED 1.2.2018 MADE ON I.A.NO.3 IN M.C.NO.5149/2016 ON THE FILE OF I ADDL. PRL. JUDGE, FAMILY COURT AT BANGALORE, WHEREIN DIRECTED THE PETITIONER HEREIN TO PAY A SUM OF RS.32,114/- AS TRAVELLING EXPENSES TO THE RESPONDENT AND FURTHER ORDERED THAT THE RESPONDENT CAN CLAIM THE FURTHER TRAVEL EXPENSES VIDE ANNEXURE-A AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioner has challenged the legality of the order, dated 1.2.2018, passed by the I Additional Principal Judge, Family Court, Bengaluru, whereby the learned Family Court has directed the petitioner to pay a sum of ₹32,114/- as traveling expenses to the respondent.

2. Briefly the facts of the case are that on 30.6.2009, the petitioner and the respondent were married at Meerut. However, during the course of the marriage, the couple had their differences. According to the petitioner, on 12.3.2016, the respondent – wife lodged a false criminal case against not only the petitioner, but also against his family members. On 22.3.2016, the respondent had also filed a divorce petition under Section 13B of the Hindu Marriage Act, 1955 ('the Act' for short). However, the said divorce petition was not pursued. Subsequently, on 20.4.2016, the petitioner filed a divorce petition on the ground of cruelty and desertion against the respondent. Since the wife was living in Muzaffar Nagar, Uttar Pradesh, and since the divorce petition was filed by the petitioner in Bengaluru, the respondent moved a transfer application before the Hon'ble Supreme Court. By order, dated

10.7.2017, the Apex Court, while dismissing the transfer application, clearly observed that the wife can claim "requisite expenditure" when the petitioner (wife) is required to travel to attend the case. Therefore, during the pendency of the divorce petition, the respondent filed an application for claiming her traveling expenditure for two days for which she had attended the hearing, namely on 3.11.2017 and 1.2.2017. She claimed that ₹32,114/- should be paid to her. By the impugned order, the learned Family Court has allowed the said application. Hence, this petition before this Court.

3. Mr. Fayaz Sab B. G., the learned counsel for the petitioner, has vehemently contended that since the respondent is merely a housewife, she is free to travel by a train, rather than having to take a flight in order to attend the trial in Bengaluru.

Secondly, the petitioner has already made an offer that he is willing to bear the train traveling expenditure, and to book the train tickets on behalf of the respondent. Therefore, the learned Family Court was not justified in granting the traveling expenditure to the respondent, as she has traveled through flight, and not by train.

Lastly, according to the Hon'ble Supreme Court, the "requisite expenditure" needs to be paid by the husband. Hence, the impugned order deserves to be set aside by this Court.

4. Heard the learned counsel for the petitioner, and perused the impugned order.

5. Admittedly, the Hon'ble Supreme Court has used the words "requisite expenditure" when the petitioner (wife) is required to travel to attend the case. However, the Apex Court has not limited the "requisite expenditure" to merely to train travel. The first contention raised by the learned counsel that merely because the respondent happens to be a housewife she is free to travel by train, the said contention is highly misplaced. For, the said plea terms the housewife as "free". Such a contention merely shows the lack of understanding about the work being carried out by "the housewife." It also reveals the lack of gender justice, where large number of persons continue to carry a misnomer that a housewife is "free". Needless to say, a housewife is as busy as a professional person. After all, she is responsible for looking after the members of the family, and for running the house. To look after the members of the family, and

to run the house is not an easy task. Therefore, the first contention raised by the learned counsel is clearly untenable.

6. It is not for the petitioner to decide as to what mode of transportation the respondent should take in order to attend the hearing. Therefore, the offer made by the petitioner is clearly unacceptable. If the respondent decides to travel by air, and not by train, even then the petitioner cannot escape his liability to pay the "requisite traveling expenditure".

7. Since, admittedly the respondent had attended the hearing dates on 3.11.2017 and 1.2.2017, since she has produced the requisite documents to establish the fact that she had incurred the traveling expenditure of ₹32,114/-, the learned Trial Court was legally justified in directing the petitioner to pay the said amount to the respondent. Since the learned Family Court has given cogent, and legal reasons for directing the petitioner to pay the said amount, this Court does not find any illegality or perversity in the impugned order. The petition being devoid of merits, is hereby, dismissed. No order as to cost.

**Sd/-  
JUDGE**

MD