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

Date of decision: 28th SEPTEMBER, 2026

CNR No. DLHC010206272026

+ **MAT.APP.(F.C.) 160/2026**

AYUSHI GUPTA

.....Appellant

Through: Mr. Jaspreet Singh, Advocate.

versus

AKARSH GUPTA

.....Respondent

Through: Ms. Gargi Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MS. JUSTICE RENU BHATNAGAR

JUDGMENT (ORAL)

CM APPL. 31074/2026

1. This is an application on behalf of the Appellant seeking condonation of delay of 44 days in filing the appeal.
2. For the reasons stated in the application, the delay of 44 days in filing the appeal is condoned.
3. The application is disposed of.

MAT.APP.(F.C.) 160/2026

1. The present Appeal under section 19(1) of the Family Courts Act, 1984 has been filed by the Appellant/Wife against the Order dated 28.01.2026 passed by the Ld. Family Court, Central District, Tis Hazari Courts, Delhi in the divorce petition being HMA No.08/2024 filed by the Respondent/Husband under Sections 13(1)(ia) and 13(1)(iii)(b) of the Hindu Marriage Act, 1955, whereby Appellant/Wife's application under Section 24



of the Hindu Marriage Act, 1955 was disposed of by the Ld. Family Court by granting interim maintenance aggregating to Rs. 16,000/- per month to the Appellant/Wife and the minor son, currently aged about 6.5 years.

2. Shorn of unnecessary details, the facts of the case reveals that the Appellant and the Respondent got married on 07.03.2014 as per Hindu Rites and Customs in New Delhi. The couple was blessed with one daughter on 25.11.2015 and one son on 05.10.2019. Matrimonial disputes arose between the Parties, resulting in filing of petitions by the Parties against each other.

3. Material on record indicates that the son is with the Appellant/Wife and daughter is with the Respondent/Husband. Material on record also indicates that the Appellant had filed a complaint with C.A.W Cell, Rohini against the Respondent which culminated in an FIR No.207/2024 dated 05.08.2024, registered at PS Budh Vihar for the offences under Sections 498A/406/34 of IPC. The Respondent in turn instituted a petition for divorce on the ground of cruelty and desertion. Pending the divorce petition, the Appellant filed an application seeking interim maintenance from the Respondent.

4. Issues have been framed in the divorce petition and trial is about to commence.

5. The Ld. Family Court *vide* the impugned Order dated 28.01.2026 assessed the income of the Respondent at Rs.50,000/-to Rs.60,000/- per month. In view thereof, the Ld. Family Court has decided the interim maintenance application filed by the Appellant by directing the Respondent to pay interim maintenance of Rs.8,000/- to the Appellant and interim maintenance of Rs.8,000/- to the minor child, totalling to Rs.16,000/- per month.



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6. The said Order has been challenged by the Appellant/Wife seeking enhancement of maintenance.
7. Notice was issued in the appeal on 08.05.2026. The Respondent has entered appearance.
8. It is the case of the Appellant that the Respondent comes from a very affluent family having substantial ancestral properties and that the family of the Respondent carries business in electrical goods and building material.
9. The Appellant is maintaining herself and her son, who is about 6.5 years of age. The Appellant is a housewife having almost no financial savings. It is her case that she has to maintain the child and has to also ensure that the child gets proper education.
10. It is contended that the Respondent has concealed several material particulars. Though the Respondent states that he is earning Rs.30,000/- per month but it is also stated that he is spending a sum of Rs.30,000/-. It is submitted that other sources of income have also not been divulged by Respondent.
11. Learned Counsel for the Appellant accordingly contends that the amount of maintenance granted by the Trial Court is on a much lower side looking at the fact that the Respondent comes from a rich family, and that the family has its own business shop. It is stated that admittedly, the Respondent is working with his father and therefore he is not divulging his income appropriately. The family has got several other sources of income. Whereas the Appellant has been left in penury and that a sum of Rs.16,000/- , i.e., Rs.8,000/- for her and Rs.8,000/- for her minor son is not sufficient for her to sustain.
12. *Per contra*, learned Counsel for the Respondent submits that he has to



maintain his mother and that his family is dependent on him for survival. He states that he is having no independent source of income and therefore the maintenance fixed by the Trial Court is commensurate to his earning.

13. Heard learned Counsel for the parties and perused the material on record.

14. The factum of marriage is not denied. The fact that there is a matrimonial discord is also admitted. The fact that divorce petition was filed by the Respondent against the Appellant is also not denied. The question which arises for consideration is regarding the *ad interim* maintenance pending the divorce petition.

15. Material on record indicates that the Respondent is working in the family business with his father, and a shop under the name and style of “M/s Nand Kishore Panna Lal and Co” at 13, Shriram Road, Civil Lines, Delhi is being run by the father of the Respondent.

16. In the impugned Order, the learned Family Court has itself looked into the various credit entries of Rs. 10,000/- to Rs. 20,000/- in the account of the Respondent and in fact, one entry of Rs.4,28,653/-, has been recorded to be credited from the LIC of India into the ICICI bank account of the Respondent.

17. This Court notes that the bank statement of the business concern where the Respondent is admittedly working has not been shown.

18. It is pertinent to note that the finding of the Trial Court that the Respondent herein has not divulged his correct income does not require any interference. The guess estimate of the Trial Court in fixing the income of the Respondent at Rs.60,000/- after taking into account the fact that his income is shown to be Rs.30,000/- therefore cannot be found fault with. If



this figure is accepted, the question is whether the Trial Court was justified in fixing the interim maintenance at Rs.16,000/- or not.

19. The purport behind Section 24 of the Hindu Marriage Act is to ensure that the wife who is not living in the matrimonial home should not live in a state of penury and that she has the capacity to take care of her needs.

20. In Chaturbhuji v. Sita Bai, (2008) 2 SCC 316, while dealing with a case under Section 125 of the CrPC, the purpose of which is also to grant maintenance, the Apex Court has observed that the purpose of grant of maintenance is to prevent the wife from vagrancy and destitution and to provide support to the deserted wife by providing her with food, clothing and shelter.

21. The Apex Court in Rajnesh v. Neha, (2021) 2 SCC 324, has acknowledged that the issue of interim maintenance is decided on the basis of pleadings where some amount of guess work or rough estimate is meant to take place so as to decide the amount to be awarded. The Apex Court also took judicial notice of the fact that often both sides submit scanty material, do not disclose the correct details and suppress vital information which makes it difficult for the Family Courts to make objective assessment for grant of interim maintenance.

22. Apportioning of the income of the husband between the members of the family has been laid down in a celebrated Judgment of this Court in Annurita Vohra v. Sandeep Vohra, 2004 SCC OnLine Del 192, wherein this Court has observed as under:-

“2. In other words the court must first arrive at the net disposable income of the Husband or the dominant earning spouse. If the other spouse is also working these earnings must be kept in mind.



This would constitute the Family Resource Cake which would then be cut up and distributed amongst the members of the family. The apportionment of the cake must be in consonance with the financial requirements of the family members, which is exactly what happens when the spouses are one homogeneous unit. Ms Geeta Luthra, learned counsel for the Respondent, had fervently contended that normally 1/5th of the disposable income is allowed to the Wife. She has not shown any authority or precedent for this proposition and the only source or foundation for it may be traceable to Section 36 of the Indian Divorce Act, 1869. This archaic statute mercifully does not apply to the parties before the Court, and is a vestige of a bygone era where the wife/woman was considered inferior to the husband as somewhat akin to his chattels. The law has advanced appreciably, and for the better. In the face of Legislatures reluctant to bring about any change over fifty years ago the Courts held that the deserted wife was entitled to an equal division of matrimonial assets. I would be extremely loath to restrict maintenance to 1/5th of the Husband's income where this would be insufficient for the Wife to live in a manner commensurate with her Husband's status or similar to the lifestyle enjoyed by her before the marital severance. In my view, a satisfactory approach would be to divide the Family Resource Cake in two portions to the Husband since he has to incur extra expenses in the course of making his earning, and one share each to other members.

3. *Observations in similar vein have been made by a The learned Single Judge of this Court in Harinder Kaur v. Sukhwinder Singh, 2002 VI AD (DELHI) 797. S.N. Kapoor, J. had opined that one*



should not be oblivious of the fact that equal status has been given to the Indian women under Articles 14 and 16 of the Constitution and that she should live according to the status of her husband along with the child of the parties. The learned Judge had ordered that the income has to be equitably apportioned for maintenance of wife and the child. In his opinion the income should have been divided into five units, two units for each of the parents and one for the young child. On a disposable income of Rs 12,000 he had granted Rs 7,200 per month for the maintenance of the wife and the child.”

23. In the present case, the Respondent husband is living with his parents in Civil Lines, Delhi. The family business is also in Civil Lines, Delhi.

24. Applying the said ratio to the present case, the amount of Rs.60,000/- if divided into five units, i.e., two for the husband, one for the wife and one each for the children, the Appellant and her minor son would be entitled to get Rs.12,000/- each, thereby making total to Rs.24,000/-.

25. Resultantly, the amount of maintenance for the Appellant-wife and her minor son is increased from Rs.16,000/- to Rs.24,000/-, i.e., Rs.12,000/- for the Appellant and Rs.12,000/- for the minor son.

26. With these observations, the appeal is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

RENU BHATNAGAR, J

SEPTEMBER 28, 2026/hsk