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

+ CRL.REV.P.(MAT.) 391/2026 & CRL.M.As. 21523-21524/2026

SALMAN HABEEB

....Petitioner

Through: Mr. V.K. Mishra, Mr. Irshad
A Siddiqui, Ms. Akarshita
Mishra, Advocates.

versus

GOVT OF NCT OF DELHI AND ORS

....Respondents

Through: Mr. Hitesh Vali, APP.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **23.07.2026**

1. The petitioner – husband assails an order dated 02.04.2026, whereby interim maintenance of Rs. 7,000/- per month was granted in favour of respondent No. 2 – wife from 31.12.2024, and interim maintenance of Rs. 7,000/- per month for the period from 01.10.2022 to 31.03.2026, and Rs. 10,000/- per month from 01.04.2026, was granted in favour of respondent No. 3 – their minor daughter.

2. I have heard Mr. V.K. Mishra, learned counsel for the petitioner.

3. It is the petitioner's case that he was married to respondent No. 2 on 05.10.2020, according to Islamic rites and customs, and a child was born to them on 29.05.2021. The petitioner and respondent No. 2 separated on 17.03.2022, and their marriage was dissolved in accordance with the applicable personal laws on 09.05.2024. It is stated that, at this



time, the petitioner paid Rs. 25,000/- as *mehar* to respondent No. 2.

4. On 16.08.2022, respondent Nos. 2 and 3 filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [“CrPC”], before the Family Court, seeking maintenance from the petitioner. In the said petition, respondent Nos. 2 and 3 averred that their monthly expenses were to the tune of Rs. 70,000/-, and that the income of the petitioner was Rs. 1,37,000/- per month.

5. The Family Court *vide* order dated 13.12.2023 granted *ad-interim* maintenance of Rs. 10,000/- per month to respondent Nos. 2 and 3, collectively. By the same order, the parties were referred to mediation, which, I am informed, was unsuccessful.

6. Subsequently, by an order dated 04.06.2025, the Family Court directed the petitioner to pay interim maintenance of Rs. 7,000/- per month to respondent No. 3 from 01.10.2022 till 17.08.2023; thereafter, Rs.7,000/- per month each to respondent Nos. 2 and 3 from 18.08.2023 till 19.06.2024; and Rs. 8,000/- per month each to respondent Nos. 2 and 3 from 20.06.2024. The petitioner then filed an application under Section 127 of the CrPC, seeking recall of the aforesaid order dated 04.06.2025.

7. By the impugned order dated 02.04.2026, the Family Court has taken note of the fact that respondent No. 2 was employed as a guest teacher from 19.09.2023 to 30.12.2024. Accordingly, it has been held that no maintenance was due to respondent No. 2 during the said period, and for the period after 31.12.2024, she has been awarded interim maintenance of Rs. 7,000/- per month. As far as respondent No. 3 is concerned, the Family Court has awarded interim maintenance of Rs.7,000/- per month from the date of the filing of the application, i.e.



01.10.2022 till 31.03.2026. As respondent No. 3 has since been admitted to school, the interim maintenance awarded to her has been enhanced to Rs.10,000/- per month from 01.04.2026. It has been directed that future interim maintenance is to be paid month by month, and maintenance already received would be adjusted against the amount of maintenance awarded in the impugned order.

8. Mr. Mishra relies upon the pay slip of the petitioner for the month of April 2026, which shows his gross earning to be Rs. 39,582/- per month, and his net pay to be Rs. 36,878/- per month. Mr. Mishra further submits that respondent No. 2 has, in fact, concealed her income in the income affidavit filed by her before the Family Court. It is further contended that the petitioner has remarried after dissolution of his marriage with respondent No. 2, and is now responsible for the maintenance of his second wife, her child from her previous marriage, as well as a child born after his second marriage.

9. Having heard Mr. Mishra, I do not find any ground to exercise the revisional jurisdiction of this Court against the impugned order of interim maintenance. The revisional jurisdiction of this Court is not to be exercised by reappraisal of evidence on matters of fact, but in very limited circumstances, in which the Court finds an error of jurisdiction in the impugned order or a material irregularity. Reference in this connection can be made to the judgment of the Supreme Court in *Amit Kapoor v. Ramesh Chander and Anr.* [(2012) 9 SCC 460], which held as follows:

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or



order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

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18. It may also be noticed that the revisional jurisdiction exercised by the High Court is in a way final and no inter court remedy is available in such cases. Of course, it may be subject to jurisdiction of this Court under Article 136 of the Constitution of India. Normally, a revisional jurisdiction should be exercised on a question of law. However, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the court. Merely an apprehension or suspicion of the same would not be a sufficient ground for interference in such cases.

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20. The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression “prevent abuse of process of any court or otherwise to secure the ends of justice”, the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily.....”

10. It is reiterated that, in the present case, the Family Court has found that respondent No. 2 was, in fact, employed during the period from 19.09.2023 to 30.12.2024, and has accordingly, held that no interim maintenance would be due to her for that period.



11. The Family Court accepted the case of respondent No. 2, on facts, that she was working from 19.09.2023 to 30.12.2024, but was not working thereafter. Mr. Mishra candidly accepts that there is no material on record to establish that respondent No. 2 was, in fact, working even after 30.12.2024. The income of the petitioner as mentioned in the affidavit filed before the Family Court was Rs. 33,099/- per month plus variable incentives. The pay slip of April 2026 which has been filed along with the present petition also reveals gross earnings of Rs. 39,582/- inclusive of variable incentives. There is thus no factual error in the finding of the Family Court.

12. The Family Court, having modified the order of interim maintenance for the period during which respondent No. 2 was, in fact, working and having also expressly directed that any amounts paid under the earlier orders of interim maintenance would be adjusted, against the maintenance due in terms of the impugned order, there is no error in the approach of the Family Court which would call for interference by this Court in its revisional jurisdiction.

13. The petition, alongwith pending applications, is accordingly, dismissed.

PRATEEK JALAN, J

JULY 23, 2026

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