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

CNR No. DLHC010387882026

+ **CRL.M.C. 6116/2026 & CRL.M.A. 25603/2026, CRL.M.A. 25604/2026**

RAHEES AHMAD @ SADIK ALI

.....Petitioner

Through: Mr. Aagam Jain, Adv.
versus

KAMAR JAHAN

.....Respondent

Through: Mr. Tanveer Ahmed Mir, Sr Adv
along with Mr. Yash Datt, Mr.
Chandra Shekhar Anand, Advs.

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

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20.08.2026

1. This hearing has been done through hybrid mode.
2. The present petition has been filed under Article 227 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), assailing the order dated 07.07.2026 passed by the learned Principal Judge, Family Court, South District, Saket Courts, New Delhi in MT Case No. 48/2018, titled "*Kamar Jahan & Ors. v. Rahees Ahmad @ Shadik Ali @ Guddu*", whereby the application filed by the petitioner seeking setting aside of the ex parte order dated 12.01.2026 was dismissed and costs of Rs.10,000/- were imposed upon him. While permitting the petitioner to participate in the proceedings thereafter, the learned Family Court further directed that he would not be entitled to cross-examine the respondent.
3. Briefly stated, the Respondent instituted proceedings under Section 125



Cr.P.C. seeking maintenance from the Petitioner. The Petitioner initially entered appearance before the learned Family Court and participated in the proceedings through counsel. On 27.08.2019, the Petitioner was present before the learned Family Court when arguments on the application seeking interim maintenance were heard. Thereafter, the Petitioner ceased appearing before the learned Family Court. The proceedings continued in his absence and the interim maintenance was decided on 01.10.2019 and examination-in-chief of the Respondent was recorded on 18.09.2023. The learned Family Court thereafter directed issuance of notices to the Petitioner on 18.04.2024, 12.12.2024, 15.04.2025 and 18.04.2025.

4. On 12.01.2026, the learned Family Court recorded that a Court notice had been received by the father of the Petitioner. The Petitioner was thereafter proceeded against ex parte vide order dated 12.01.2026. Subsequently, an application under Order IX Rule 7 read with Section 151 CPC was filed by the Petitioner seeking setting aside of the ex parte order and permission to participate in the proceedings. The said application was dismissed by the learned Family Court vide the Impugned Order dated 07.07.2026, with costs of ₹10,000/-. While dismissing the application, the learned Family Court permitted the Petitioner to join the subsequent proceedings, subject to the conditions stipulated in the Impugned Order, but specifically denied him the opportunity to cross-examine the Respondent. The present petition has been filed assailing the said order.

5. Learned counsel for the Petitioner submits that the learned Family Court erred in dismissing the application seeking setting aside of the ex parte proceedings. It is submitted that the Petitioner had initially participated in the proceedings, had filed his reply and was represented through counsel. He



remained present before the learned Family Court on 27.08.2019 when the application for interim maintenance was argued.

6. Learned counsel submits that thereafter the Petitioner was informed by his erstwhile counsel that the matter had been settled and that his further appearance was not required.

7. Learned counsel submits that the learned Family Court failed to appreciate that the Petitioner was not disputing his knowledge of the original maintenance proceedings. His specific case was that, after 27.08.2019, he remained absent under the bona fide belief that the matter had been settled.

8. Learned counsel further submits that the Petitioner had shifted from Bareilly to Delhi and was residing with his son. Despite the change in residence, the notices continued to be issued at his old Bareilly address. It is further submitted that notices were repeatedly issued in the name of “Rahees Ahmad”, whereas the Petitioner’s name is Sadiq Ali. Consequently, the Petitioner did not have effective notice of the subsequent proceedings.

9. Learned counsel submits that the Petitioner came to know of the continuation of the proceedings only when he was contacted by the police in connection with the execution proceedings. Immediately thereafter, he attempted to contact his erstwhile counsel and, upon receiving no response, engaged fresh counsel and filed the application seeking setting aside of the ex parte order without any deliberate delay.

10. Learned counsel further submits that the conduct of the Petitioner demonstrates his bona fides. The Petitioner had made payments towards maintenance during the pendency of the proceedings and also made payments during the execution proceedings. It is submitted that such conduct is inconsistent with any intention to evade the proceedings or defeat the



maintenance claim.

11. Learned counsel submits that, in any event, the direction denying the Petitioner the opportunity to cross-examine the Respondent causes grave and irreparable prejudice.

12. I have heard the learned counsel for the petitioner and perused the material on record.

13. A perusal of the petition reveals that the maintenance proceedings under Section 125 Cr.P.C. were instituted by the Respondent along with her children in the year 06.05.2016. The Petitioner entered appearance through counsel on 26.09.2018, filed his reply and contested the proceedings. He also appeared before the learned Family Court on 27.08.2019, when arguments on the application seeking interim maintenance were heard.

14. The Petitioner thereafter did not appear before the learned Family Court. The record shows that the Petitioner remained absent from 27.08.2019 until he was proceeded ex parte on 12.01.2026. Thus, the period of non-appearance is approximately six years. During this period, the proceedings continued and the examination-in-chief of the Respondent was recorded on 18.09.2023.

15. Therefore, the submission of the Petitioner that he was under the bona fide belief that the matter had been settled and that his further appearance was not required, cannot be accepted. The Petitioner had admittedly appeared before the learned Family Court and was aware of the pendency of the proceedings.

16. It is not fathomable that the petitioner could have remained unaware of the pendency of the proceedings for nearly six years, particularly when repeated notices had been issued to him. The petitioner cannot now, while the



matter is at the stage of final arguments, seek to shift the entire blame for his prolonged absence upon his previous counsel. Having himself participated in the proceedings and being aware of the pendency of the matter, the petitioner was expected to exercise reasonable diligence and keep himself apprised of the status of the case.

17. The provisions of Order IX Rule 7 CPC require the applicant to demonstrate a good cause for his previous non-appearance. The Supreme Court in ***Parimal v. Veena*, (2011) 3 SCC 545**, while considering the expression “*sufficient cause*”, has held as follows:

*“ ‘Sufficient Cause’ is an expression which has been used in large number of Statutes. The meaning of the word “sufficient” is “adequate” or “enough”, in as much as may be necessary to answer the purpose intended. Therefore, word “sufficient” embraces no more than that which provides a platitude which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case and duly examined from the view point of a reasonable standard of a cautious man. **In this context, “sufficient cause” means that party had not acted in a negligent manner or there was a want of bona fide on its part** in view of the facts and circumstances of a case or the party cannot be alleged to have been “not acting diligently” or “remaining inactive”. However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously.”*

18. In the facts of the present case, this court is of the view that the petitioner has acted in a most negligent and non-bona fide manner and has shown no good cause for his non-appearance.

19. A perusal of the order dated 07.07.2026 shows that the learned Trial



Court has duly considered the explanation furnished by the petitioner for his non-appearance and has, after affording him adequate opportunity to place on record his justification, examined the same in detail and recorded cogent reasons for concluding that no sufficient cause had been shown for his absence on the relevant date.

20. In view of the aforesaid discussion, this Court is not inclined to interfere with the findings returned by the learned Trial Court, as the same suffer from neither any perversity nor any infirmity warranting interference by this Court.

21. Accordingly, the present petition is dismissed. Pending application(s), if any, also stand dismissed.

22. A copy of this order be sent to the learned Trial Court for information and necessary compliance.

23. The order be uploaded on the website forthwith.

MADHU JAIN, J

AUGUST 20, 2026/sd