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

CNR No. DLHC010406772026

+ **CRL.REV.P.(MAT.) 499/2026, CRL.M.A. 26733/2026, CRL.M.A. 26734/2026**

SALEEM FAROOQI

.....Petitioner

Through: Mr. Abdul Guffar, Mr. Nakul
Sharma and Mr. Junaid Nizar,
Advs.

versus

STATE OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Satish Kumar, APP with Mr.
Upasana Bakshi and Ms. Divya
Bakshi, Advs.

SI Yogesh Kumar, PS Sadar Bazar

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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31.08.2026

1. By virtue of the present petition under *Section 442* of the of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), petitioner seeks following reliefs:-

“a. By this revision petition order or direction thereby set aside and/ or modify the impugned order dated 09.07.2026 passed by Ld. Judge, Family Court-01, District Central, Tis Hazari Courts, Delhi in MT No. 484/2023, to the extent it (i) directs the Petitioner to pay interim maintenance of Rs. 21,200/- per month to the Respondents, and (ii) dismiss the Petitioner's application under Section 146 of BNSS, 2023;

b. Stay the operation and implementation of the impugned order dated 09.07.2026 during the pendency of the present petition;



c. *Pass any other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice."*

2. Of the various grounds raised by the petitioner herein, learned counsel for the petitioner primarily submits that though the petitioner had raised an issue before the learned Family Court *qua* the respondent no.2 being in an adulterous relationship, as also having extra-marital affairs, the same were ignored and was not given the benefit of *Section 125(4)* of the Criminal Procedure Code, 1973 (**CrPC**) [*Section 144(4)* of the BNSS¹] as held by the Hon'ble Supreme Court in **Himanshu Chordia vs. State of Rajasthan and Anr.**:2026 SCC OnLine SC 1461.

3. The learned counsel further submits that despite placing on record evidence in the nature of Hotel visiting registers containing multiple entries concerning the respondent no.2, along with intimate chats/conversations corroborating the petitioner's plea *qua* adulterous relationship of the respondent no.2 in the application filed under *Section 146* of the BNSS², the learned Family Court erred by mechanically

¹ **144. Order for maintenance of wives, children and parents.**

(4) No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

² **146. Alteration in allowance.**

(1) On proof of a change in the circumstances of any person, receiving, under section 144 a monthly allowance for the maintenance or interim maintenance, or ordered under the same section to pay a monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be.

(2) Where it appears to the Magistrate that in consequence of any decision of a competent Civil Court, any order made under section 144 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

(3) Where any order has been made under section 144 in favour of a woman who has been divorced by, or has obtained a divorce from, her husband, the Magistrate shall, if he is satisfied



relegating adjudication of the said issue to the stage of evidence.

4. The learned counsel also submits that factors such as the petitioner's second marriage on 13.07.2024, birth of his minor daughter on 17.05.2025 and subsequent loss of employment, ought to have been considered as '*change in circumstances*' after passing of the order dated 13.02.2024 granting *ad-interim* maintenance to the respondents which squarely fell within the ambit of his application filed under *Section 146* of the BNSS.

5. Lastly, the learned counsel submits that the learned Family Court failed to take note of the financial liabilities of the petitioner, which include, EMIs for the personal loan, two-wheeler loan and the home loan availed by him, as also that he has to take care of the needs of his second wife and the minor daughter born out of the said wedlock, and awarded interim maintenance @ 40% of the petitioner's net monthly income.

6. Heard learned counsels and perused materials on record.

7. At the outset, it is relevant to bear in mind that the petitioner is seeking to challenge only an interim order wherein the learned Family

that—

(a) the woman has, after the date of such divorce, remarried, cancel such order as from the date of her remarriage;

(b) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce, cancel such order,—

(i) in the case where such sum was paid before such order, from the date on which such order was made;

(ii) in any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(c) the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to maintenance or interim maintenance, as the case may be, after her divorce, cancel the order from the date thereof.

(4) At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom a monthly allowance for the maintenance and interim maintenance or any of them has been ordered to be paid under section 144, the Civil Court shall take into account the sum which has been paid to, or recovered by, such person as monthly allowance for the maintenance and



Court has, based on the income affidavits as also the bank account statements of both the parties, directed the petitioner herein to pay interim maintenance of Rs.21,200/- per month to the respondent nos.2 and 3 herein from the date of filing till final disposal of the maintenance petition.

8. Coming to the facts of the present proceedings, it bears out that the challenge hereto by the petitioner is the non-consideration of the respondent no.2 being in an adulterous relationship, and hence non-grant of benefit under *Section 125(4)* of the CrPC to the petitioner and the rate of interim maintenance being disproportionate as the petitioner has financial obligations of taking care of his second wife and minor daughter as also liabilities in the form of EMIs for personal, two-wheeler and home loans.

9. Regarding the issue of non-consideration of the respondent no.2 being in an adulterous relationship, and non-grant of benefit under *Section 125(4)* of the CrPC [*Section 144(4)* of the BNSS] to the petitioner, since what was *admittedly* filed before the learned family Court was a simpliciter application under *Section 146* of the BNSS wherein the petitioner had only sought for alteration of the allowance/ ad- interim maintenance i.e. Rs.20,000/- per month in the changed circumstances, therefore, reliance upon/ seeking recourse to the said provision of *Section 125(4)* of the CrPC [*Section 144(4)* of the BNSS] by learned counsel for petitioner cannot be permissible. They cannot be equated with each other as being *para materia* to each other. The petitioner could not have contended something which was beyond the purview of the provision under which the application was filed before the learned Family Court.

interim maintenance or any of them, as the case may be, in pursuance of the said order.



Similarly, it does not lie for the petitioner to contend the same all over again before this Court, and that too, in a revisional jurisdiction.

10. Regarding the respondent being in ‘adultery’, a perusal of the impugned order reflects that the same has been dealt with by the learned Family Court, as under:-

“13..... ... Even the allegations of adultery levelled by respondent upon petitioner is required to be proved during evidence and no comments can be made qua the said allegations prior to recording of evidence and prior to giving both the parties right to cross examine the witnesses of the opposite party, which can happen only at the stage of evidence.”

11. Further, considering the stage of the proceedings, particularly, since the trial is yet to commence before the learned Family Court, and as the case of the petitioner is merely based on the Hotel visiting registers, and since barring this, there was/ is nothing on record to substantiate the allegations qua the charge of ‘adultery’ against the respondent no.2, in the considered opinion of this Court, there is no infirmity in the impugned order passed by the learned Family Court, which, has rightly deferred adjudication of the said issue to the stage of evidence as the veracity of the said allegations need to be proved by way of clear and cogent evidence.

12. As such, reliance placed upon ***Himanshu Chordia (supra)*** is misplaced, moreover, since the Hon’ble Supreme Court therein was dealing with the manner and stage at which an application under *Section 125(4)* of the CrPC is to be adjudicated, which is not the case herein.

13. Regarding the rate of interim maintenance being disproportionate as the petitioner has financial obligations of taking care of his second wife and minor daughter as also liabilities in the form of EMIs for personal,



two-wheeler and home loans, the present petition is bereft of any (sound) reasonings therein for this Court to exercise its revisional jurisdiction, which is to be exercised sparingly with care and caution. There are no such issue(s)/ assertion(s)/ ground(s) warranting any such interference by this Court to set aside and/ or modify the quantum of interim maintenance granted by the learned Family Court to the respondent nos.2 and 3. More so, since in the considered opinion of this Court, the view expressed by the learned Family Court, is a plausible view on the basis of the materials placed on record.

14. The petitioner cannot be permitted to reagitate the very same issues once again under the garb of the present petition in revisional jurisdiction, where the scope itself is very narrow.

15. In any event, since the maintenance granted *vide* the impugned order is ‘*interim*’ in nature and the amount thereof is subject to adjustment at the time of final adjudication of the maintenance petition, this Court is not inclined to modify the same.

16. Accordingly, the present petition, alongwith the pending application, is dismissed *in limine*.

SAURABH BANERJEE, J.

AUGUST 31, 2026/rr/DA