



\$~28 & 29

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 138/2020, CRL.M.A. 3270/2020,**
CRL.M.A. 3283/2020, CRL.M.A. 18963/2023 &
CRL.M.A. 17525/2024

SH. SANJEEV KUMAR JHAM
@ SURAJ JHAM

.....Petitioner

Through: Mr. Neeraj Kumar, Adv.

versus

SMT. SUNITA CHOUDHARY
@ KANGNA JHAM

.....Respondent

Through: Mr. Puneet Kumar, Adv.
(through VC)
Respondent in person

+ **CRL.REV.P. 18/2023, CRL.M.A. 372/2023 &**
CRL.M.A. 16738/2024

SUNITA CHOUDHARY

.....Petitioner

Through: Mr. Puneet Kumar, Adv.
(through VC)
Petitioner in person

versus

SANJEEV KUMAR JHAM

.....Respondent

Through: Mr. Neeraj Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
29.10.2024

%

1. The present petitions are filed impugning the judgment dated 09.10.2019 (hereafter '**impugned judgment**') passed by the learned Family Court, Rohini Courts, Delhi in Mt. No. 56046/2016.

2. The petitioner in CRL.REV.P. 18/2023 – Sunita

CRL.REV.P. 138/2020 & CRL.REV.P. 18/2023

Page 1 of 6



Choudhary seeks enhancement of the maintenance granted by the learned Family Court in a petition filed under Section 125 of the Code of Criminal Procedure, 1973 (**CrPC**).

3. The learned Family Court, by the impugned judgment, decided the petition filed by the respondent in CRL.REV.P. 138/2020 under Section 125 of the CrPC, and awarded a maintenance of ₹15,000/- per month to the respondent – Sunita Choudhary till her lifetime or till she remarries or till she starts earning sufficiently, whichever is earlier. The learned Family Court noted that the respondent was entirely dependent on the petitioner for financial support, with no substantial or independent source of income.

4. The learned Family Court conducted a thorough examination of financial records, including income affidavits, cross-examinations, and bank statements, which indicated that the petitioner – Sanjeev Kumar Jham declared income and assets were substantially understated. The evidence of frequent foreign trips and ownership of high-value assets further revealed a lifestyle inconsistent with his disclosed earnings. Based on the facts and circumstances, the learned Family Court reasonably concluded that the petitioner's income was at least ₹35,000/- per month. Consequently, the court directed the petitioner to pay ₹15,000/- per month as maintenance to the respondent, ensuring she could maintain a standard of living aligned with her marital status.

5. The learned counsel for Sanjeev Kumar Jham/petitioner submits that the maintenance awarded was grossly inadequate, as the learned Family Court did not consider the fact that educational and professional qualification of the respondent/Sunita Choudhary is higher than that of the petitioner.



6. He submits that as per the statement of PW-4, the owner of Numero Uno is petitioner's mother and the petitioner is only a manager in the same.

7. He submits that he has remarried and bears additional family responsibilities, including a school-going child.

8. He submits that there was no justified or lawful ground or probable cause for enhancing the interim maintenance of ₹4,500/- to final order of maintenance of ₹15,000/- per month.

9. The learned counsel for the respondent – Sunita Choudhary submits that the petitioner – Sanjeev Kumar Jham has intentionally concealed his actual income. The evidence presented during trial, including income affidavits and cross-examination, suggests that he is involved in his mother's profitable business, Tirupati Apparels, where he serves in a managerial capacity. The petitioner's lifestyle, including frequent foreign trips and possession of high-value assets, is inconsistent with the declared income of ₹13,000/- to ₹14,000/- per month. It is alleged that the petitioner earns significantly more than disclosed i.e. around ₹5,00,000/- per month.

10. A copy of the passport has been filed by the petitioner-Sanjeev Kumar Jham. The said passport was issued on 30.04.2019. The learned counsel for the respondent – Sunita Choudhary, on instructions, submits that the petitioner, on earlier occasions, had taken frequent foreign trips.

11. Section 125 of the CrPC is a provision designed to provide a quick remedy to those who are unable to maintain themselves. The primary objective of this section is to prevent vagrancy and destitution by ensuring that those who are dependent on another for their subsistence, such as a wife, children, or parents, receive financial support when they are unable to maintain themselves.



The Hon'ble Apex Court in ***Chaturbhuj v. Sita Bai : (2008) 2 SCC 316*** emphasized that the object of maintenance proceedings is not to punish a person for past neglect but to ensure that those entitled to support are not left in distress. This provision embodies the social responsibility and moral duty to maintain one's dependents.

12. The impugned judgment dated 09.10.2019 passed by the learned Family Court is a well-reasoned and judicious order that comprehensively addresses the financial circumstances and responsibilities of both parties. It strikes a delicate balance between the respondent – Sunita Choudhary's right to maintenance and the petitioner – Sanjeev Kumar Jham's financial capacity. The judgment ensures that the respondent is supported to live with dignity, while also acknowledging the reasonable financial constraints of the petitioner.

13. The learned Family Court noted conflicting financial disclosures and inconsistencies in the income affidavit and the petitioner's testimony. While he claimed that he was only earning ₹13,000/- to ₹14,000/- per month by working in the shops/showrooms owned by his mother, his bank statements, transactional history, his own social media posts suggested otherwise. It was further noted that the salary certificate produced by the petitioner cannot be treated as truthful since the showroom where he was working as a manager was admittedly owned by his mother.

14. The learned Family Court carefully analyzed the evidence, including income affidavits, cross-examinations, and financial records. It determined the petitioner – Sanjeev Kumar Jham's income to be ₹35,000/- per month based on the evidence produced.



15. The allegations of concealed income by the respondent, while noteworthy, were not supported by concrete evidence to justify an enhancement of maintenance. Similarly, the petitioner's claims of limited earning capacity were found to lack credibility, given inconsistencies in his declarations and his evident standard of living.

16. The awarded maintenance of ₹15,000/- per month is deemed fair and reasonable, considering the standard of living the petitioner/wife was accustomed to during the marriage, as well as her current financial dependence. This amount is consistent with the principles laid down in ***Bhagwan Dutt v. Kamla Devi : (1975) 2 SCC 386***, where it was held that maintenance should allow the wife to live in a manner consistent with the status she enjoyed while living with her husband, neither luxurious nor penurious.

17. While the petitioner argued financial hardship due to his remarriage and the responsibility of a second family, he failed to produce convincing evidence to substantiate these claims. The learned Family Court reasonably concluded that such factors, though relevant, do not absolve him of his legal obligation to maintain his first wife.

18. The courts are empowered to make reasonable presumptions about the financial capacity of the earning spouse, but such presumptions must be based on evidence rather than conjecture. The Learned Family Court exercised this power judiciously, neither exaggerating the husband's earning capacity nor disregarding the wife's legitimate needs.

19. In view of the above, this Court finds no reason to interfere with the impugned judgment, and the petitions are dismissed in the aforesaid terms.



20. A copy of the order be placed in both the matters.

OCTOBER 29, 2024

AMIT MAHAJAN, J