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IN THE HIGH COURT OF DELHI AT NEW DELHI

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**CRL.REV.P. 664/2023 & CRL.M.A. 15729/2023**

MOHD SHAKIR

.....Petitioner

Through: Mr. Vaibhav Vats, Adv.  
(DHCLSC)

versus

SHABANA SHAHEEN AND ANR

.....Respondents

Through: Mr. Abdul Salam and Ms.  
Shruti Jain, Advs. (through  
VC)

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

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**05.11.2024**

1. The present petition is filed challenging the judgment dated 06.04.2023 (hereafter '**impugned judgment**'), passed by the learned Family Court, Karkardooma Courts, Delhi in MT No. 146/2018.

2. The learned Family Court, by the impugned judgment, allowed the petition under Section 125 of the Code of Criminal Procedure, 1973 ('**CrPC**'), and directed the petitioner to pay maintenance of ₹3300/- per month to Respondent No.2 (child of the petitioner) until he attains majority from the date of filing of petition. The petitioner was also directed to clear the arrears within a period of two months from the date of order.

3. The learned counsel for the petitioner submits that the petitioner is paying the maintenance to Respondent No. 2 regularly. Insofar as the arrears of the maintenance are concerned, he submits that the petitioner is not in a position to clear the arrears due to his financial condition and seeks time.



4. It is undisputed that Respondent No.2 is the child of the petitioner. The learned Family Court, after assessing the income of the petitioner on the basis of minimum wage in Delhi of an unskilled labour as per the notification issued by GNCT being ₹16,506/-, awarded a sum of ₹3300/- in favour of Respondent No.2.

5. It is well - settled that the object of granting maintenance is to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support.

6. A father cannot shirk his sacrosanct duty to financially support his minor children. The Hon'ble Apex Court, in the case of **Anju Garg and Anr. v. Deepak Kumar Garg : 2022 SCC Online SC 1314**, observed as under:

*“10... The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. **The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute....***

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*13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no source of income as his party business has now been closed, the Court is neither impressed by nor is ready to accept such submissions. **The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child...***

(emphasis supplied)

7. Thus, it is incumbent on the petitioner, who is an able-bodied man to financially support Respondent No.2.

8. However, considering the petitioner is yet to pay the arrears for the awarded maintenance and has delayed the same for more than five months, it is hereby directed that the petitioner



shall pay ₹5000/- per month to Respondent No. 2 in the interim in view of the doctrine of balancing equities.

9. The Court recognizes both the petitioner's financial constraints and the immediate needs of Respondent No. 2. Therefore, to balance these interests, the petitioner is provided a reasonable period of six months from the date of this order to clear all outstanding arrears, ensuring that the petitioner has an opportunity to meet these financial obligations in a sustainable manner without undue hardship.

10. Following the payment of arrears within this six-month period, the petitioner shall continue to pay maintenance as awarded by the trial court, which is ₹3300/- per month.

11. In view of the above, this Court finds no reason to interfere with the impugned judgment and the petition is dismissed in the aforesaid terms.

**AMIT MAHAJAN, J**

**NOVEMBER 5, 2024**