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

+ CRL.REV.P.(MAT.) 576/2025, CRL.M.A. 37887/2025

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.....Petitioner

Through: Mr. Sanjeev Kumar, Advocate.

versus

THE STATE (GOVT. OF NCT DELHI) & ANR.Respondents

Through: Mr. Digam Singh Dagar, APP for
State.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

18.12.2025

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1. This revision petition assails order dated 29th October, 2025, passed by the Sessions Court, dismissing the Petitioner's appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005.¹ The appeal arose from order dated 25th April, 2025 passed by the Mahila Court, Karkardooma Courts, whereby (i) the Petitioner's plea seeking residence rights in respect of the premises at Vijay Vihar, Delhi was declined on the ground that the said premises was not shown, even *prima facie*, to be a "shared household" within the meaning of Section 2(s) of the Act, and (ii) the prayer for additional interim monetary relief was rejected, noticing that the Petitioner was already receiving ₹20,000/- per month as *ad-interim* maintenance under Section 125 of the Code of Criminal Procedure, 1973.²
2. The Petitioner (wife) and the Respondent (husband) married on 14th

¹ "DV Act"

² "Cr.P.C."



April, 2022. The relationship soon ran into turbulence and the parties separated on 14th September, 2022. The Petitioner thereafter initiated proceedings under the DV Act, 2005 seeking, among other reliefs, (i) a residence order on the footing that the premises at Vijay Vihar, Delhi constituted shared household, and (ii) interim monetary relief.

3. The Mahila Court, by order dated 25th April, 2025, declined both prayers. It held that the record did not *prima facie* establish that the Vijay Vihar premises qualified as a shared household within Section 2(s) of the Act, particularly as the pleadings were silent on the period of residence and the contemporaneous record reflected that the parties lived at a rented accommodation in Mandawali. On interim monetary relief, the Mahila Court recorded that the Petitioner was already receiving ₹20,000/- per month as *ad-interim* maintenance under Section 125 Cr.P.C. and found no basis, on the documents on record, to grant any additional amount, at that stage. The Petitioner carried the matter in appeal under Section 29 of the DV Act. The Sessions Court, by order dated 29th October, 2025, affirmed the reasoning of the Mahila Court and dismissed the appeal.

4. The present revision seeks interference with these concurrent orders.

5. Counsel for the Petitioner argues that both the Courts have proceeded on an unduly restrictive understanding of the Petitioner's entitlements under the DV Act. On the aspect of residence, it is urged that the Vijay Vihar premises constitutes a "shared household" and that the Petitioner cannot be denied the statutory right under Section 17 merely because she is not presently residing there or because the parties also stayed at a rented accommodation during the subsistence of the marriage. Reliance is placed



on the decision of the Supreme Court in *Prabha Tyagi v. Kamlesh Devi*,³ to contend that actual residence at the time of seeking relief is not mandatory and that the right to reside can be enforced even where the aggrieved woman has been excluded. On maintenance, it is contended that the Petitioner is unemployed, presently dependent on her parents, and that her brief pre-marital employment cannot be treated as evidence of earning capacity. It is submitted that the bank statements show only sporadic credits and do not indicate any stable income. The Petitioner further argues that award of *ad-interim* amount of ₹20,000/- under Section 125 Cr.P.C. neither considers Respondent No. 2's earnings, which are around ₹1,25,000/- per month, nor does it cater to the Petitioner's reasonable needs. On this basis, it is argued that refusal to grant a residence order and denial of additional interim monetary relief suffer from non-consideration of material facts and warrant interference in revision.

6. At the outset, it is pertinent to highlight that where two Courts have concurrently evaluated the record and returned findings, particularly at the interim stage, revisional interference is warranted only where the impugned orders disclose a jurisdictional error, patent illegality, material irregularity, or perversity leading to miscarriage of justice.⁴

Residence in the Vijay Vihar premises

7. The right to reside in a shared household under Section 17 of the DV Act is a substantive protection. It is also settled that a woman need not demonstrate ownership, title, or a proprietary interest to seek enforcement of that right. The Supreme Court has clarified that actual residence at the time

³ (2022) 8 SCC 90.

⁴ New India Assurance Co. Ltd. Vs. Krishna Kumar Pandey, 2019 SCC OnLine SC 1786.



of moving the Court is not a rigid precondition. That said, the statutory right still turns on the foundational fact that the claimed premises bears a real nexus to the domestic relationship and, on facts, qualifies as a shared household under Section 2(s). Even at the interim stage, the Court must have some reliable material to indicate past residence of a meaningful character, or at least a pleaded and supported case of constructive residence. The law does not dispense with proof altogether. It only relaxes the insistence on physical occupation as a pre-condition to seek the relief.

8. The Petitioner's claim for a residence order in respect of the Vijay Vihar premises rests substantially on an assertion of constructive residence. However, on the record as evaluated by the Mahila Court, the Petitioner's own pleadings and contemporaneous materials did not disclose when, and in what manner, the Petitioner resided at Vijay Vihar, Delhi, or that she was ever excluded from that premises by any of the accused persons. The Mahila Court noticed that the pleadings are silent on the duration of stay, that the Petitioner's complaint records the couple residing at a rented premises, and that no contemporaneous documents were produced to *prima facie* show residence at Vijay Vihar. The Sessions Court re-examined the same aspect and found no basis to disturb the conclusion, observing that this issue is better tested on evidence rather than on a bare assertion at an interim stage.

9. These are not superficial reasons. They go to the root of the matter for a residence order. The approach of both Courts is consistent with the principle in *Satish Chander Ahuja v. Sneha Ahuja*⁵ that "shared household" in Section 2(s) is fact-driven and the nature and degree of residence matters. In these circumstances, the refusal to pass a residence



order cannot be characterised as a denial of the statutory protection under Section 17. The Petitioner remains at liberty to lead evidence and, if the factual basis is established, to seek appropriate relief at the final stage.

Interim monetary relief

10. The DV Act provides an additional and independent avenue for monetary relief. The fact that maintenance has been awarded under Section 125 Cr.P.C. does not, by itself, bar a claim under the DV Act. At the same time, the court must guard against overlapping awards operating as duplication, and must assess need and capacity on disclosed materials in line with the framework explained in **Rajnish v. Neha**.⁶ The Mahila Court rejected the claim for additional interim relief for cogent reasons. It recorded that the Petitioner was already receiving ₹20,000 per month under Section 125 Cr.P.C., that the assertion of monthly expenses of ₹30,000 was unsupported by regular documentary indicators of such expenditure, and that there were inconsistencies in the Petitioner's disclosures relating to employment. These considerations are directly relevant at the interim stage, where the Court must make a document based assessment.

11. The Sessions Court reiterated that, on the materials placed, the Petitioner had not laid a *prima facie* foundation to justify enhancement or an additional interim monetary order over and above what was already being received. It also recorded that the Petitioner would remain at liberty to lead evidence before the Trial Court to establish the plea of inadequacy at the appropriate stage. The Appellate Court's approach is also in line with the principle that interim maintenance is meant to prevent destitution and secure

⁵ (2021) 1 SCC 414.

⁶ (2012) 2 SCC 324.



reasonable support, but the quantum cannot be fixed in a vacuum and must rest on pleadings and supporting material.

12. The Court is mindful that a claim under the DV Act is not barred merely because maintenance has been awarded under Section 125 Cr.P.C. At the same time, an additional interim award must be founded on credible material showing inadequacy of the existing arrangement and a present need that is not being met. In the present case, the Petitioner is already receiving ₹20,000 per month as *ad-interim* maintenance. Beyond broad assertions of monthly expenditure and a stated income of the husband, the Petitioner did not place verifiable indicators of recurring expenses which would justify a further interim direction at this stage. The Courts below have also noticed inconsistencies in disclosure relating to employment and expenses, which legitimately warranted caution while considering an additional interim award.

13. As highlighted above, this Court, in revision, is not to substitute its own assessment of quantum for a concurrent interim view unless the orders disclose a clear error of principle or a demonstrable failure to consider relevant material. No such infirmity is shown. Even on an independent consideration of the record, no ground is made out to disturb the concurrent interim view.

14. In any event, the impugned orders are interim in character and rest on an evaluation of *prima facie* material. No jurisdictional error, perversity, or patent misapplication of principle is shown.

15. For these reasons, the revision petition is dismissed. Pending applications, if any, also stand disposed of. It is clarified that the Petitioner remains at liberty to lead evidence before the Trial Court in support of her



claims, including on the questions of shared household and adequacy of maintenance, and to seek appropriate relief in accordance with law at the appropriate stage.

16. Any observation made herein is only for the purpose of deciding the present revision against interim orders and shall not be construed as an expression on the merits of the main proceedings. The rights and contentions of all parties are kept open.

SANJEEV NARULA, J

DECEMBER 18, 2025

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