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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 81/2019, CRL.M.A. 1449/2019 & CRL.M.A. 2583/2023**

MANOJ KUMAR

.....Petitioner

Through: Mr. Sidharath Kapoor, Advocate with
Petitioner in person

versus

ALKA & ANR

.....Respondents

Through: Mr. M. R. Chanchal, Advocate for R-
1 & 2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
25.04.2025

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1. The present petition under Section 397 read with 401 of the Code of Criminal Procedure, 1973¹ assails the order dated 19th September, 2018 in MT No. 331/2018², passed by the Family Court, North-East District, Karkardooma Courts, on a petition filed by Respondents under Section 125 of the Cr.P.C.

2. Briefly stated the facts of the case are that marriage between the Petitioner and Respondent No. 1 was solemnised as per Hindu rites and customs on 09th March, 2008 and from this marriage, one girl child was born

¹ "Cr.P.C."

² "Impugned order"



(Respondent No. 2) on 19th December, 2008, who is presently residing with Respondent No. 1.

3. On 4th April, 2011, the Respondents preferred a petition under Section 125 of Cr.P.C. seeking maintenance from the Petitioner, which was awarded by way of the impugned order – i.e., the final order of maintenance dated 19th September, 2018. The operative portion of the impugned order reads as follows:

*“11. Factum of relationship of husband and wife between the parties is not disputed. On appreciation of the evidence and perusal of material on record this court finds that respondent had neglected to maintain the petitioner. Respondent had stated that he is ready to pay Rs.15,000/- per month. Petitioner has prayed for seeking maintenance @ Rs.15,000/- per month in her petition as well as in her affidavit in evidence and has testified that she needs Rs.15,000/- per month for maintaining herself and the child as respondent is ready to pay Rs.15,000/-. **Earning of the petitioner at the time of filing was stated to be Rs.20,000/- per month and at present his income is Rs.44,950/-**. Respondent has admitted that he has not other liability. According to him, he is repaying the loan @ Rs.9,640/- per month and the EMIs are payable till January 2019. **Having regard to the totality of the aforementioned facts and circumstances of the case and needed expenditure of the petitioners, it is ordered that respondent shall pay Rs.15,000/- per month from the date of filing of the petition till their legal entitlement.** Petitioners are entitled for the litigation expenses to the tune of Rs.11,000/-. Respondent is directed to pay the arrears of maintenance @ Rs. 15,000/- per month to the petitions or deposit in her bank account (after adjustment of the amount already paid in the court) within eight weeks from today and shall continue to pay monthly maintenance on or before 10th of each succeeding month. Petitioner u/s 125 Cr.P.C. stands disposed of accordingly. No order as to costs. File be consigned to the Record Room.”*

[Emphasis supplied]

4. The Petitioner, who is a Head Constable with Delhi Police, does not dispute his liability to pay the maintenance awarded by the Family Court from the date of the award, however, he urges that the said amount cannot be awarded uniformly from the date of filing of the petition. In this regard,



he submits that the petition was filed on 4th April, 2011, and his salary as a government employee at that time (2011) was much less. He submits that his salary has gradually increased over the years and at the time of passing of the award in 2018, it stood as 45,773 (net pay). The Petitioner's salary details have been mentioned at paragraph no. 2(iv) of the instant petition, as follows:

“2(iv). That the Ld. Lower Court has committed grave procedural errors while passing the impugned judgment and order in a harsh manner as settled law for computation of period of payment of maintenance amount as well as manner of calculating the maintenance amount has been ignored as the petitioner has been directed to pay Rs. 15,000/- per month from the date of application whereas the amount of Rs.15,000/- per month was to be calculated from the date of order i.e., 19.09.2018 and prior to it for the purpose of payment the amount was to be calculated @ Rs. 5,000/- per month as the salary of the petitioner in the year 2011 was Rs. 20,000/- per month (petitioner was carrying at home Rs.17,000/- per month approximate after deductions) and in the year 2012 it was approximate Rs.22,000/- (petitioner was carrying at home Rs.18,000/- per month approximate after deductions) and in the year 2013 it was approximate Rs.24,000/- (petitioner was carrying at home Rs.20,000/-per month approximate after deductions) and in the year 2014 it was approximate Rs.26,000/-(petitioner was carrying at home Rs.22,000/- per month approximate after deductions) and in the year 2015 gross pay was approximate Rs.30,947/-(petitioner was carrying at home as net pay an amount of Rs.25,752/- per month approximate after deductions) and in the year 2016 gross pay was approximate Rs.31,038/- (petitioner was carrying at home as net pay an amount of Rs.28,587/- per month approximate after deductions) and in the year 2017 gross pay was approximate Rs.40,8454/- (petitioner was carrying at home as net pay an amount of Rs.37,768/- per month approximate after deductions) and in the year 2018 gross pay is approximate Rs.49,844/- (petitioner is carrying at home as net pay an amount of Rs.45,773/- per month approximate after deductions) and so far the petitioner is regular in paying the maintenance amount as directed by the Ld. Lower Court as till November 2018 the petitioner has paid the maintenance amount in following manner:-

a). Maintenance amount from November 2011 to November 2014 for the period of 37 months @Rs. 5,000/- per month to the tune of Rs. 1,85,000/-.

b). From December 2014 to September 2018 for the period of 46 months @ Rs.12,000/- per month to the tune of Rs.5,52,000/- (as the petitioner has filed a petition U/s 13 of HMA against the Respondent No.1 which is still



pending in the court of Ld. Judge Family Court (NE, Delhi at KKD, Courts and during the pendency of this petition the Ld. Judge while making orders on LA. Under section 24 of H.M.A. filed by respondent no.1 had directed the petitioner to pay a sum of Rs. 12,000/- per month as interim maintenance to the respondents w.e.f. 28.11.2014 along with Rs.11,000/- as litigation expenses).

c). From October 2018 to November 2018 for the period of two months maintenance amount @ Rs.15,000/- per month to the tune of Rs.30,000/-.

d). that the litigation expenses to the tune of Rs. 11,000/- have also been paid by the petitioner and the amount of both the cases i.e., regarding the petition under section 125 CR.PC. and regarding interim application under section 24 of HMA have been adjusted commonly in the aforesaid manner.”

5. The Court has considered the submissions urged by the Petitioner. In the impugned order, the Family Court has awarded maintenance of INR 15,000/- for the Respondents from the date of filing of the petition till the date of the final order, on the basis of evaluation of the Petitioner's salary, determined as INR 44,950/-, which comes out to 33.3% of his salary at the time. It is noted that even though the Trial Court acknowledged that the Petitioner's salary at the time of filing of the petition was INR 20,000/-, the blanket maintenance of INR 15,000/- was granted from the time of filing of the petition.

6. It is also pertinent to note that the Petitioner has not disputed his responsibility to pay maintenance to the Respondents either before the Trial Court or before this Court. In fact, on 6th December, 2019, the Petitioner sought a stay on the operation of the impugned order stating that without prejudice to his rights and contentions, he was ready and willing to deposit a sum of INR 2.5 Lakhs before the Trial Court which may be released in favour of the Respondents. Considering the same, this Court stayed the operation of the impugned order on 6th December, 2019.

7. In light of the above, considering the fact that as per the Petitioner's



salary details mentioned in the petition which are not disputed by the Respondents, the Petitioner's salary for the period prior to the passing of the impugned order was much lesser than the amount on which the maintenance of INR 15,000/- was granted, the impugned order is modified. Accordingly, the award of maintenance from 2011 onwards shall now be computed as follows:

- a. From 4th April 2011 to 01st January, 2012 – **INR 5,661/-** per month (33.3% of monthly take home salary of INR 17,000/-)
 - b. From 02nd January, 2012 to 01st January, 2013 – **INR 5,994/-** per month (33.3% of monthly take home salary of INR 18,000/-)
 - c. From 02nd January, 2013 to 01st January, 2014 – **INR 6,660/-** per month (33.3% of monthly take home salary of INR 20,000/-)
 - d. From 02nd January, 2014 to 01st January, 2015 – **INR 7,326/-** per month (33.3% of monthly take home salary of INR 22,000/-)
 - e. From 02nd January, 2015 to 01st January, 2016 – **INR 8,575/-** per month (33.3% of monthly take home salary of INR 25,752/-)
 - f. From 02nd January, 2016 to 01st January, 2017 – **INR 9,519/-** per month (33.3% of monthly take home salary of INR 28,587/-)
 - g. From 02nd January, 2017 to 01st January, 2018 – **INR 12,576/-** per month (33.3% of monthly take home salary of INR 37,768/-)
 - h. From 02nd January, 2018 to 19th September, 2018 and onwards – **INR 15,000/-** per month (as calculated by the Trial Court)
8. It is directed that all payments made after the passing of the impugned order – i.e, 19th September, 2018 shall be adjusted against the modified maintenance amounts mentioned above. Furthermore, all arrears shall be cleared within a period of 3 months from today.



9. With the above directions, the present petition along with pending applications is disposed of.

SANJEEV NARULA, J

APRIL 25, 2025
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