2025:DHC:12020

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

% ***Date of Decision: December 24, 2025***

\+ **<u>CRL.REV.P. 90/2023 & CRL.M.A. 2562/2023</u>**

DIPAK PRASAD .....Petitioner

Through: Mr. Sumit Sarna & Mr. Pradeep Kataria, Advs. alongwith petitioner

versus

SANGITA KUMARI .....Respondent

Through: Mr. Murari Tiwari & Mr. Rahul Kumar, Advs.

\+ **<u>CRL.REV.P. 744/2023</u>**

SANGITA KUMARI .....Petitioner

Through: Mr. Murari Tiwari & Mr. Rahul Kumar, Advs.

versus

DIPAK PRASAD .....Respondent

Through: Mr. Sumit Sarna & Mr. Pradeep Kataria, Advs. alongwith respondent.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

<u>AMIT MAHAJAN, J. *(Oral)*</u>

1. The present revision petitions are filed against the order dated 05.11.2022 (hereafter '**impugned order**') passed by the learned Judge, Family Court, Shahdara, Karkardooma Courts, Delhi in MT No. 394/2021.

2. By the impugned order, the learned Family Court assessed the net monthly income of the petitioner/husband after deductions to be ₹69,000/- per month and awarded a sum of ₹21,000/- as interim maintenance to the petitioner/wife.

3. The learned counsel for the petitioner/husband submits that the learned Family Court erred in granting a sum of ₹21,000/- per month as interim maintenance to the petitioner/wife. He submits that the said amount is exorbitant and does not take into account the fact that the petitioner/husband is also responsible to look after his father who is dependant on him. He submits that the father of the petitioner/husband earns only a small amount as pension and that the same is not sufficient for his sustenance.

4. The learned counsel for the petitioner/wife essentially seeks enhancement of interim maintenance. He submits that the interim maintenance of ₹21,000/- is meagre and does not take into account the expenses incurred by the petitioner/wife. He submits that salary slip of the petitioner/husband for the month January, 2024 reflects his salary to be ₹1,25,708 and that for the month of April, 2024 is ₹1,49,906. He consequently prays that considering the income of the petitioner/husband, the interim maintenance be enhanced.

5. At this stage, it is pertinent to note that the relationship between the parties is not disputed. This Court, on the last date of hearing, had directed the petitioner/husband to file his current salary slip. In that regard, today the salary slip for the month of November, 2025 has been handed over to the Court as per which the monthly salary of the petitioner/husband without deductions

comes at ₹1,70,351/-. As per the salary slip for the month of November, 2025, the deductions are shown at ₹61431/- out of which ₹17,000/- is towards festival advance, ₹3941 is towards personal loan, ₹6542 is towards car loan and ₹1674 is towards vehicle registration loan which are not statutory deductions and ought to be considered as part and parcel of the salary. Consequently, the salary for the month of November, 2025 comes to around ₹1,38,077/-.

6. The learned Family Court, by the impugned order, noted that the petitioner/wife was living separately from the petitioner/husband. It was noted that as per the then salary slip of the petitioner/husband, he was earning a salary of ₹1,06,917/- per month. It was further noted that as per the salary slip for the month of February, 2022, there were various deductions in the salary of petitioner/husband being ₹9,000/- towards festival advance, ₹3941 towards personal loan, ₹9,670/- towards recovery of advance salary availed during COVID-19. As rightly noted by the learned Family Court, the said deductions towards festival advance, personal loan or recovery of advance salary are not statutory deductions and such deductions have to be considered as part of the salary of the petitioner/husband. However, the statutory deductions ought to be considered while computing the monthly salary of the petitioner/husband for the purpose of calculating maintenance which comes to around ₹36,984. Consequently, insofar as the assessment of monthly income of the petitioner/husband after statutory deductions is considered, this Court does not find any infirmity in the assessment of the

monthly income of the petitioner/husband at ₹69,000/- per month. To this extent, this Court does not find any infirmity in the impugned order.

7. The petitioner/husband has emphasised before this Court that he also has to provide for his father who is dependent on him. On being specifically asked, the petitioner stated that his father retired as a government employee and is also drawing a pension. Consequently, in the opinion of this Court, as duly appreciated by the learned Family Court, the petitioner/husband's father cannot be said to be dependant on him.

8. Insofar as the quantum of interim maintenance is concerned, it is pertinent to note that this Court in the case of ***Annurita Vohra v. Sandeep Vohra* : 2004 (74) DRJ 99** had observed that the court should initially determine the net disposable income of the Husband or the primary earner within the family. If the other spouse is also employed, those earnings should be taken into consideration. This collective income forms the Family Resource Cake, which is then distributed among the family members. The allocation of this cake should align with the financial needs of each family member, and an equitable approach would involve dividing the Family Resource Cake into two portions for the Husband, acknowledging his additional expenses incurred in earning, and one portion each for the other members should be taken.

9. In that regard, considering the monthly income of the petitioner/husband as ₹69,000/-, the interim maintenance payable to petitioner/wife comes at ₹23,000/- per month. Consequently,

the interim maintenance awarded to the petitioner/wife is enhanced from ₹21,000/- to ₹23,000/- per month from the date of filing of the interim maintenance. However, as noted above, the salary slip of the petitioner/husband shows a gradual increase in his salary from the date on which the impugned order was passed. Consequently, the interim maintenance from the date of filing of the application of interim maintenance till December, 2022 stands at ₹23,000/- and the same shall be enhanced by 6% every year during the pendency of the application under Section 125 of the CrPC or till further orders by the learned Family Court. The arrears in maintenance to be cleared by the petitioner/husband within a period of four months from date.

10. It is not disputed that the impugned order is only an order of interim maintenance. The defences raised by the parties, along with the allegations and counter allegations, would be the subject matter of trial, and would have to be decided after the parties have led their evidence.

11. The learned Family Court is directed to pass the final order uninfluenced by the observations made in this order.

12. The present petitions are disposed of in the aforesaid terms.

13. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

DECEMBER 24, 2025
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