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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.REV.P. 177/2023 & CRL.M.A. 4381/2023

ROHIT KUMARPetitioner

Through: Mr. Pratap Singh, Mr.
Arun Yadav and Mr.
Raman Mudgal,
Advocates.

versus

ASHA @ VIDYARespondent

Through: Mr. Anil Gupta, Advocate
(through VC).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **15.09.2025**

1. The present revision petition is filed by the petitioner challenging the order dated 03.11.2022 (hereafter '**impugned order**') passed by the learned Family Court, South-East District, Saket Courts, New Delhi in MT No. 80/2021.

2. By the impugned order, the learned Family Court allowed the application filed by the respondent seeking interim maintenance and awarded interim maintenance of ₹10,000/- per month to the respondent till the final disposal of the case.

3. It is averred that the marriage between the petitioner and the respondent was solemnized on 18.05.2019, whereafter, due to some misunderstandings the parties started residing separately and have been residing separately since 15.01.2021.

4. Thereafter, on 24.03.2021, the respondent filed a petition under Section 125 of the Code of Criminal Procedure along with an application seeking interim maintenance from the petitioner.

CRL.REV.P. 177/2023

Page 1 of 5



5. As noted above, the learned Family Court by the impugned order allowed the application filed by the respondent seeking interim maintenance. The learned Family Court noted that even though the income of the petitioner has been assessed as per Minimum Wages Act, 1948, he would still have a duty to maintain his wife and thereby awarded interim maintenance of ₹10,000/- per month to the respondent till the final disposal of the case.

6. The learned counsel for the petitioner submits that the income of the petitioner was taken as ₹15,000/- per month. He submits that in such circumstances, awarding an interim maintenance of ₹10,000/- per month is highly excessive.

7. He submits that the learned Family Court failed to appreciate the fact that at the time of passing the impugned order the petitioner was unemployed and he is no condition to pay interim maintenance to the respondent.

8. He submits that the respondent has concealed the fact that she is operating a beauty parlour and is deriving an income of ₹15,000/- per month from the same.

9. Per contra, the learned counsel for the respondent vehemently opposes the arguments as raised by the learned counsel for the petitioner. He consequently prays that the present petition be dismissed.

10. I have heard the learned counsel for the parties and perused the record.

Analysis

11. In the present case, the marriage between the petitioner and the respondent is undisputed. The learned Family Court by the impugned order noted that the petitioner was an able bodied



person and even as per the provisions of the Minimum Wages Act, 1948 his income could not have been less than ₹15,000/- per month and thereby awarded an amount of ₹10,000/- per month as interim maintenance to the respondent.

12. In the opinion of this Court, when the learned Family Court has itself assessed the income of the petitioner on the basis of minimum wages payable in Delhi then the amount of ₹10,000/- per month as interim maintenance is unreasonable. The learned Family Court has failed to provide any reason for awarding the said amount as interim maintenance.

13. It is the contention of the learned counsel for the petitioner that the petitioner is unemployed and is staying with his grandmother and is no position to pay any maintenance to the respondent. While the veracity of the contentions of the petitioner would be tested during the course of trial, this Court cannot lose sight of the fact that husbands embroiled in matrimonial disputes have a tendency to downplay their income and claim that they have no source of income in order to evade their liability to pay maintenance.

14. Therefore, keeping in view the facts of the present case, the monthly income of the petitioner is assessed as per Minimum Wages of a skilled labour which is ₹18,000/- per month.

15. It is undisputed that no children were born out of the wedlock between the petitioner and the respondent and hence the petitioner has no other dependent other than the respondent.

16. The petitioner in the present case is an able-bodied man and cannot run away from his duty to maintain his wife. The Hon'ble Apex Court, in the case of **Anju Garg and Anr. v.**

Deepak Kumar Garg : 2022 SCC Online SC 1314, observed as
CRL.REV.P. 177/2023

Page 3 of 5



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....

X-X-X

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)

17. This Court in the case of ***Annurita Vohra v. Sandeep Vohra : 2004 (74) DRJ 99*** 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.

18. If the said formula is applied by taking the salary of the petitioner to be ₹18,000/-, and two portions are allocated to the petitioner, the interim maintenance payable to the respondent comes to ₹6,000/- per month.

19. In view of the aforesaid discussion, the impugned order is



modified to the extent that the petitioner is directed to pay an amount of ₹6,000/- per month as interim maintenance to the respondent from the date of filing the application till the final disposal of the case.

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

21. The learned Trial Court is directed that the final order be passed in the case uninfluenced by the findings made in the impugned order or this order.

22. The present petition is disposed of in the aforesaid terms. Pending Application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 15, 2025

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