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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: December 03, 2025***+ **CRL.REV.P. 312/2023 & CRL.M.A. 7773/2023****SHRI ARUN KUMAR**PetitionerThrough: Ms. Ragini Tripathi and
Mr. B.K. Tripathi,
Advocates.

versus

SMT. SARLA & ANR.RespondentsThrough: Mr. Sudhir Kumar Sharma,
Advocate (through VC).**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition is filed under Section 397 of the Code of Criminal Procedure, 1973 ('CrPC') read with Section 482 of the CrPC to set aside the order dated 13.01.2023 (hereafter '**impugned order**') in MT No. 152/2022 passed by the learned Family Court, Karkardooma Courts, Delhi whereby the learned Family Court awarded a sum of ₹45,000/- per month as interim maintenance to the respondents.

2. The marriage between the petitioner and Respondent No.1 was solemnized on 04.03.2001 and two children were born out of the wedlock, who are in the custody of Respondent No.1.

3. Respondent No.1 (wife of the petitioner) and Respondent No.2 (daughter of the petitioner) jointly filed an application under

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Section 125 of the CrPC before the learned Family Court claiming maintenance from the petitioner.

4. By the impugned order, the learned Family Court directed the petitioner to pay a sum of ₹45,000 per month as interim maintenance to the respondents (wife and daughter of the petitioner) from the date of filing of the petition to Respondent No.1 till she remarries or is gainfully employed and to Respondent No.2 till she marries or is gainfully employed.

5. The learned Family Court noted that Respondent No.2 was major at the time of filing the petition and was not suffering from any mental or physical disabilities and hence, could not claim maintenance under Section 125 of the CrPC from the petitioner. However, the learned Trial Court noted that Respondent No.2 would be entitled to maintenance from the petitioner under Section 20 of the Hindu Adoptions and Maintenance Act, 1956 ('**HAMA Act**').

6. Learned Family Court relied upon the judgment passed by the Apex Court in the case **Abhilasha v. Parkash : (2021) 13 SCC 99** and held that if the Family Court has the jurisdiction to decide cases under Section 125 of the CrPC and Section 20 of the HAMA Act, then in an appropriate case, it can exercise jurisdiction under both the Acts and can grant maintenance to unmarried daughter even though she has become major.

7. The learned Family Court determined the monthly income of the petitioner to be ₹1,00,000/- per month. It was noted that the petitioner in his affidavit claimed that his mother is dependent upon him and he spends ₹10,000/- per month on his mother, after



deducting the same from his income his net monthly income was determined to be ₹90,000/- per month. Considering the aforesaid the learned Family Court awarded interim maintenance of ₹45,000/- per month to the respondents.

8. The learned counsel for the petitioner submits that that Respondent No.2 is a major daughter, and is not entitled to maintenance from the petitioner under Section 125 of the CrPC as she neither suffers from any physical; nor any mental abnormality due to which she is unable to maintain herself.

9. He submits that the reliance of the learned Family Court on the judgment of *Abhilasha v Parkash* (*Supra*) is misplaced, as Respondent No.2 had already gained the age of majority at the time of filing the application under Section 125 of the CrPC.

10. He submits that the learned Family Court did not appreciate the facts that the petitioner has to spend ₹13,000/- per month on EMIs, ₹18,000/- per month on loan instalments, ₹17,142/- per month on rent and ₹20,000/- per month on medical expenses. He submits that after the aforesaid necessary expenses the petitioner is left with a balance of only ₹15,000/- per month.

11. The learned counsel for the respondents submits that the impugned order is well reasoned and warrants no interference by this Court.

12. He submits that Respondent No.2 is the unmarried major daughter of the petitioner who is entitled to maintenance from the petitioner under Section 20 of the HAMA Act. He submits that the learned Family Court has awarded interim maintenance to the

respondents on a combined reading of Section 125 of the CrPC

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and Section 20 of the HAMA Act rightly placing reliance on the judgment of the *Abhilasha v Parkash* (*Supra*).

13. He submits that Respondent No.2 is still studying in college and she would unjustly suffer if she has to file a fresh petition under Section 20 of the HAMA Act to claim maintenance from the petitioner.

14. I have heard the counsel and perused the record.

15. In the facts of the present case, Respondent No.1 is the wife of the petitioner and Respondent No.2 is his major daughter who had jointly filed an application under Section 125 of the CrPC claiming maintenance from the petitioner.

16. It will be apposite to discuss the law provided under Section 125 of the CrPC. The same is set out below:

125. Order for maintenance of wives, children and parents.—

(1) If any person having sufficient means neglects or refuses to maintain—

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not



possessed of sufficient means:

[Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses for proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.]

17. Undisputedly, in terms of Section 125 of the CrPC, a major unmarried daughter would only be entitled to maintenance if she, by reason of any physical or mental abnormality or injury, is unable to maintain herself. It is not the case of Respondent No.2 that she suffers from any physical or mental abnormality or injury due to which she is unable to maintain herself.

18. Petitioner has not disputed the entitlement of major daughter to receive maintenance though it is contended that Respondent No.2 being the major daughter of the petitioner could not have filed an application under Section 125 of the CrPC.

19. It is however not disputed that, a major Hindu daughter is entitled to maintenance from her father under Section 20 of the HAMA Act as long as the major daughter is unmarried and is unable to maintain herself out of her own earnings and property.

20. Respondent No.2 being the major unmarried daughter of the petitioner, would be entitled to maintenance from the petitioner



under Section 20 of the HAMA Act and could very well have filed such a petition and claimed the same maintenance as awarded in the present case.

21. The learned Family Court taking note of the same, has awarded interim maintenance to the respondents of ₹45,000/- per month on a joint reading of Section 125 of the CrPC and Section 20 of the HAMA Act so as to avoid multiplicity of proceedings, placing reliance on the judgment of the Hon'ble Supreme Court in **Abhilasha v Parkash** (*Supra*), the relevant paragraphs of the same have been reproduced herein below:

*“There may be a case where the Family Court has jurisdiction to decide a case under Section 125CrPC as well as the suit under Section 20 of the 1956 Act, in such eventuality, **the Family Court can exercise jurisdiction under both the Acts and in an appropriate case can grant maintenance to unmarried daughter even though she has become major enforcing her right under Section 20 of the 1956 Act so as to avoid multiplicity of proceedings** as observed by this Court in Jagdish Jugtawat [Jagdish Jugtawat v. Manju Lata, (2002) 5 SCC 422 : 2002 SCC (Cri) 1147]. However the Magistrate in exercise of powers under Section 125CrPC cannot pass such order.”*

22. Undisputedly, the learned Family Court has the appropriate jurisdiction to grant maintenance under Section 125 of the CrPC and Section 20 of the HAMA Act. Although in the present case, the application filed by Respondent No.2 under Section 125 would not be maintainable as she is a major, no prejudice or injustice is pleaded or can be said to have been caused to the petitioner as he would be equally obligated to provide maintenance to Respondent No.2 had she filed an appropriate petition under Section 20 of the HAMA Act.

23. In the opinion of this Court, rejecting the application on



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such a technicality and directing her to file a fresh petition under the HAMA Act, when the Family Court already adjudicating the application of Respondent No.1 has the jurisdiction to grant her maintenance under the HAMA Act, would lead to unnecessary multiplicity of proceedings and amount to abuse of process of Court. For the aforesaid reasons, no interference is called for in the impugned order on this ground.

24. It has been contended by the learned counsel for the petitioner that the learned Family Court did not consider that the petitioner claimed deduction towards rent, EMI, medical expenses and investments in SIP. In the opinion of this Court, the learned Family Court rightly noted that while calculating the quantum of maintenance, income has to be ascertained by only permitting deductions which are towards income tax and compulsory contributions. The learned Family Court rightly noted that the aforesaid deductions cannot be granted to the petitioner and only allowed deduction of ₹5,000/- towards his GPF.

25. The learned Trial Court determined the monthly income of the petitioner to be ₹1,00,000/- per month, including ₹87,000/- from salary and ₹13,000/- from rent. The learned Family Court allowed a deduction of ₹10,000/- to the petitioner towards the expenses incurred by him for his dependent mother as the same amount had been claimed by the petitioner in his Affidavit.

26. Moreover, it is pertinent to note that the impugned order pertains to interim maintenance. The contentions raised by the parties along with the allegations and counter allegations would be

finally adjudicated after the parties have led their evidence. No



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material has been placed on record at this stage that would warrant the interference of this Court in the impugned order.

27. In view of the aforesaid discussion, this Court finds no reason to interfere with the impugned order.

28. The present petition is dismissed in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

DECEMBER 3, 2025

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