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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 206/2019 & CRL.M.A. 3845/2019**
JOGINDER SINGHPetitioner

Through: Mr. Piyush Aggarwal, Advocate.
versus

SWEETYRespondent
Through: Mr. Vishesh Wadhwa, Mr. Vishwam
Mishra and Ms. Swadha Gupta,
Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
02.05.2025

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1. The present revision petition under Section 397 read with Sections 401 and 482 of the Code of Criminal Procedure, 1973¹ is directed against order dated 28th November, 2018 passed by the ASJ-04, West District, Tis Hazari, in Crl. Appeal No. 54603/2016, titled ***"Joginder Singh v. Sweety"***. Through this order, the Sessions Court has upheld the order of the Mahila Court dated 7th October, 2016, awarding a total maintenance of ₹14,000/- per month to the Respondent and her minor daughter.

2. Briefly stated, the facts of the case, leading to the filing of the present petition are as follows:

2.1 The Petitioner and the Respondent got married on 9th December, 2008. From this marriage, a daughter was born on 30th June, 2012, who is presently in the custody of the Respondent. However, on account of temperamental differences and other reasons, the Respondent separated from

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the Petitioner in 2014.

2.2 Thereafter, in February 2015, the Respondent filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005² before the Chief Metropolitan Magistrate, West District, Tis Hazari Courts. During the pendency of these proceedings, she also moved an application under Section 23 of the DV Act, seeking interim maintenance of ₹15,000/- per month from the Petitioner. After providing both parties an opportunity to file their income affidavits and details of expenses, the Mahila Court awarded interim maintenance of ₹14,000/- per month—₹8,000/- in favour of the Respondent and ₹6,000/- for the minor child.

2.3 Aggrieved by the said order, the Petitioner preferred an appeal before the Sessions Court, which was dismissed by the impugned order dated 28th November 2018, thereby upholding the grant of maintenance.

3. Aggrieved by the aforementioned findings, the Petitioner has filed the present petition, seeking setting aside of the impugned order. By an interim order dated 20th February, 2019, this Court stayed the operation of the impugned order, subject to the Petitioner paying ₹7,000/- per month to the Respondent. This interim arrangement was later modified by order dated 10th September, 2024, whereby the Petitioner was directed to pay ₹10,000/- per month to the Respondent.

4. Be that as it may, counsel for the Petitioner contends that the award of maintenance is excessive and unreasonable. He raises the following grounds in support of his challenge to the impugned order:

4.1 Neither the Mahila Court nor the Sessions Court adequately

¹ “Cr.P.C.”

² “DV Act”

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considered the fact that the Petitioner has no independent source of income. The award of interim maintenance amounting to ₹14,000/- per month is arbitrary and based on conjecture and assumptions.

4.2 The Petitioner's income affidavit clearly reflects that he has no earnings whatsoever. Nonetheless, the Mahila Court, relying solely on the contentions made by the Respondent, and without proper verification of the supporting documents, proceeded to award interim maintenance.

4.3 The Respondent misrepresented before the Mahila Court that the Petitioner earns rental income. The properties referred to in her affidavit belong to the Petitioner's father, and the rental proceeds accrue solely to him. The Petitioner therefore argues that he has no independent source of income to sustain the maintenance amount awarded, and in fact, has been complying with the Courts' directions regarding payment of maintenance by taking financial assistance from his father.

5. The Court has considered the aforementioned contentions, but remains unpersuaded. At the outset, it must be emphasized that the order of the Mahila Court dated 7th October, 2016, addresses merely an interim arrangement of maintenance, which is, by its very nature, a temporary arrangement meant to operate during the pendency of proceedings. Such orders are provisional and open to variation upon a comprehensive evaluation of evidence at the final stage.

6. In determining the quantum of interim maintenance, the Mahila Court considered the income affidavits and supporting documents filed by both parties. Based on the affidavit submitted by the Respondent, the Court observed that she is a housewife, fully dependent on her parents, and does not possess any movable or immovable assets. In contrast, the Court noted

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that the Petitioner owns multiple properties from which he earns rental income, in addition to income generated from agricultural land. On the other hand, while the Petitioner alleged that the Respondent was earning ₹10,000/- per month through tuition work, he failed to produce any supporting documents to substantiate this claim.

7. It is well-settled that, at the stage of adjudicating interim maintenance, the trial court is only required to make a reasonable and informed estimation based on the material available on record. In this context, the Mahila Court, having considered the affidavits filed by the parties, the Petitioner's immovable assets, and his social standing, assessed his monthly income to be in the range of ₹25,000/- to ₹30,000/-. Accordingly, a total interim maintenance of ₹14,000/- per month was awarded, of which ₹8,000/- was to be paid to the Respondent and ₹6,000/- to the minor daughter.

8. The Sessions Court, upon examining the Petitioner's grounds of challenge, found no illegality or perversity in the order of the Mahila Court and upheld the award of interim maintenance.

9. At this juncture, it is imperative to highlight that it is the fundamental duty of a husband to provide maintenance to his wife and children, as highlighted by the Supreme Court in *Shamima Farooqui v. Shahid Khan*.³ In the said case, the Court underscored that a healthy, able-bodied husband has a legal obligation to provide maintenance to his wife. Furthermore, the Court emphasized that this obligation is amplified when the children are in the care of the wife. The Supreme Court in *Anju Garg v. Deepak Kumar Garg*,⁴ categorically made the following observations:

³ (2015) 5 SCC 705.

⁴ 2022 SCC OnLine SC 1314.

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*“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.** In Chaturbhuj v. Sita Bai, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy.”*

10. In light of this settled legal position, the Court is of the opinion that the concurrent findings of the Mahila Court and the Sessions Court do not suffer from any legal infirmity or perversity, warranting any interference by this Court.

11. It bears reiteration that interim maintenance is intended as a stopgap arrangement to ensure financial subsistence and basic security during the pendency of proceedings. It neither concludes the rights of the parties nor prevents re-evaluation at the final stage.

12. In view of the foregoing, the present petition stands disposed of along with pending application.

SANJEEV NARULA, J

MAY 2, 2025

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