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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1660/2025 & CRL.M.As. 7462-7465/2025**
BHARAT BHUSHANPetitioner

Through: Ms. Pallavi Vashist, Advocate.

versus

VEENA RANI ALIAS ANITARespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
10.03.2025

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1. The present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023¹ read with Section 482 of the Code of Criminal Procedure, 1973² is directed against the judgment dated 13th November, 2024 passed by the ASJ-05, West District, Tis Hazari Courts, Delhi in Criminal Appeal No. 210/2023 titled as “*Bharat Bhushan v. Veena Rani @Anita*”.
2. By the impugned judgment, the Appellate Court upheld the order dated 5th April, 2023, passed by the Mahila Court, West District, Tis Hazari Courts³, directing the Petitioner to pay interim maintenance of ₹14,000 per month to the Respondent. The said order was passed in proceedings under Section 23 of the Protection of Women from Domestic Violence Act, 2005⁴ wherein the Respondent had sought financial support pending final

¹ “BNSS”

² “CrPC”

³ “Trial Court”

⁴ “DV Act”



adjudication of her claims.

3. Briefly stated, the facts of the case are as follows:

3.1. The Petitioner and the Respondent (Complainant) got married on 31st October, 2017. This marriage could not sustain for very long and just about a year later, on 23rd September, 2018, the parties got separated. No children were born from the marriage.

3.2. After the separation of the parties, the Respondent initiated proceedings under the DV Act, *inter-alia*, seeking interim maintenance under Section 23. During the adjudication of the said application, the Trial Court examined the income affidavit filed by the Respondent, wherein she stated that she was a graduate (B.A.) but had no independent source of income. She further claimed that she was dependent on her parents, who were bearing expenses of approximately ₹30,000 per month for her sustenance. The bank statements submitted along with her affidavit reflected only a nominal balance between 2017 and 2020, offering no indication of any regular income.

3.3. On the other hand, the Petitioner, a Head Constable in Delhi Police, in his income affidavit dated 18th October, 2021, disclosed his monthly salary as ₹44,780. He supported his claim with a salary slip for the month of June 2021.

3.4. The Petitioner contended that the Respondent was financially self-sufficient, allegedly earning ₹20,000 per month by working at a beauty parlour/boutique shop. However, this assertion remained unsubstantiated, as no documentary evidence was provided to support the claim.

3.5. Considering the income affidavits, salary records, and other documents placed on record, the Trial Court awarded the Respondent



interim maintenance of ₹14,000 per month.

3.6. In appeal, the Appellate Court (ASJ-05, Tis Hazari Court, Delhi), upheld the decision of the Trial Court and made the following observations:

“Court 's Observations

12. Returning to the present case, it is an admitted case of the parties that the marriage of appellant solemnized with respondent on 31.10.2017. As per, the complaint, after marriage, the appellant/ and his parents started taunting the respondent/wife for · bringing insufficient dowry and started extending mental cruelty and desertion towards her. There have been allegations of domestic violence against the appellant/husband and during pendency of the said case interim maintenance was granted by Ld. Trial Court.

13. By way of present appeal, the appellant/husband seeks setting aside of the interim maintenance granted to the respondent/wife since the Ld. Trial Court after evaluating the income affidavits filed on record by both the parties, has fixed the interim maintenance of Rs.14,000/- p.m. for the respondent/wife.

14. Law is well settled that the maintenance is decided on the basis of income affidavits filed by the parties and sometimes on the basis of guess work. In many cases, it is seen that both the parties do not disclose their actual details. Wife always intends to exaggerate her needs on the other hand, husband always tends to conceal his actual income.

15. The main contention of the appellant/husband is that the respondent wife is well educated and capable of maintaining herself since she is working.

16. As per record in form of affidavit filed by the appellant/husband, it is an admitted case of the parties that the appellant/husband is working as Head Constable in Delhi Police and drawing gross salary of Rs.44, 780/- per month.

17. As far as income of the respondent/wife is concerned, as per income affidavit filed by the respondent/wife, she is residing in her parental house and she is not earning a single penny and totally dependent on her brother. However, according to the appellant/husband, the respondent/wife is a graduate and working in a beauty parlour/boutique shop and earning about Rs.20,000/- per month approximately, but, he failed to adduce any piece of document to support his stand. Hence, the Court is left with no other option but to rely upon the Income Affidavit of the respondent/wife. Even the bank statement of the respondent/wife for the period from 25.12.2017 to 01.12.2020 shows that she was maintaining very low balance in her bank account. However, bank statement of appellant/husband available on record reflects a good amount is being maintained by him. Therefore, the dispute regarding the



income of the respondent/wife is concerned, the said dispute would require evidence to be led by the parties and at the stage of determining interim maintenance, the Court has to form a prime facie view only. Further, whether respondent/wife is actually earning or qualified and capable of earning are again two different things. As already stated, the appellant/husband failed to adduce any piece of evidence in support of his arguments that the respondent/wife is actually earning and receiving salary and the same has to be established during trial. In the absence of any cogent evidence that respondent/wife is gainfully employed and receiving salary, there is no justification to deny maintenance to her.

18. The other contention raised by Ld. Counsel for the appellant/husband is that he is under debt as he had taken loan from the bank for the purpose of marriage of his sister. However, perusal of the record shows that the applications were filed by the respondent/wife before the Ld. Trial Court on 02.04.2019 and as per copy of statement of loan accounts of Axis Bank, the said loan amount was disbursed to the appellant/husband on 05.07.2019 and 27.02.2020 i.e. after the date of filing of the applications by the respondent/wife. It has been contended by Ld. Counsel for the respondent/wife that the marriage of sister of appellant/husband was solemnized even before the marriage between the present parties. Nothing has been shown on record to prove the date of marriage of the sister of the appellant/husband and that the loan was taken for the said purpose or that his parents are dependent upon him and were incapable getting their daughter married. Surprisingly, the loan was taken twice i.e. in the year 2019 and 2020 but the marriage date of his sister is not mentioned anywhere. Even this ground was taken before the Ld. Trial Court which has been dealt in detail in the impugned order. Hence, the stand taken up by the appellant/husband for decrease in the interim maintenance amount is devoid of any merits.

Conclusion

19. In light of aforesaid discussion and applying the ratio laid down by the Hon'ble Superior Court, this Court finds no infirmity or illegality in passing the impugned order as respondent/wife is entitled for interim maintenance since at this stage the object of benevolent act and only prime facie case is to be looked into. Accordingly, present criminal appeal is hereby dismissed.

20. The trial Court record along with the copy of this judgment be sent back to the learned Trial Court.

21. The file of this appeal be consigned to record room after due compliance."

4. Aggrieved with the aforementioned findings of the Appellate Court, the



Petitioner has invoked this Court's revisional jurisdiction assailing the impugned order on the following grounds:

4.1. The Courts below have rendered their findings on conjecture and speculation, failing to appreciate the totality of the facts and circumstances of the case. Their conclusions are based on a superficial assessment rather than a thorough examination of the financial position of both parties.

4.2. The impugned orders fail to consider the principles laid down by the Supreme Court in ***Rajnish v. Neha & Anr.***⁵ which enumerate the relevant factors for determining maintenance. The Respondent did not submit any documentary evidence substantiating her monthly expenditure or financial needs, despite claiming that she incurs costs of ₹30,000/- per month. The absence of such material ought to have weighed in the Petitioner's favour.

4.3. The Respondent is a college graduate and is earning ₹20,000/- per month. The assertion in her income affidavit, that she has no source of livelihood is demonstrably false. As an educated and employable individual, she is expected to make reasonable efforts to support herself instead of relying entirely on maintenance from the Petitioner. The law does not permit an educated spouse to remain idle and demand full financial support when capable of self-sufficiency. In support of this contention, reliance is placed on the judgement of the Karnataka High Court in ***Shilpashree J.M. v. Gurumanjunatha A.S.***⁶, the Delhi High Court in ***Rupali Gupta v. Rajat Gupta***⁷ and the Madhya Pradesh High Court in ***Mamta Jaiswal v. Rajesh Jaiswal***⁸

⁵ (2021) 2 SCC 324

⁶ 2023 SCC OnLine Kar 36

⁷ 2016 SCC OnLine Del 5009

⁸ 2000 SCC OnLine MP 580



4.4. The Petitioner, serving as a Head Constable in the Delhi Police, has additional financial obligations, including the care of his elderly parents, who are dependent on him. Furthermore, he has taken a substantial loan to finance his sister's wedding, for which he is paying an EMI of ₹28,000/- per month. The Courts below have failed to account for these liabilities while determining the quantum of maintenance, resulting in an excessive and unsustainable award in favour of the Respondent.

5. The Court has considered the aforementioned contentions, but finds no merit in the same. At the outset, it must be emphasised that the impugned orders pertain only to interim maintenance, while the petition for final maintenance under the DV Act remains pending before the Trial Court. The scope of interference at this stage is, therefore, limited to examining whether the interim relief granted by the Courts below suffers from any patent illegality or material irregularity.

6. The Petitioner's income has been assessed based on his salary slip, which reflects a gross monthly salary of ₹44,780/-. This assessment is not in dispute and forms a reasonable basis for determining the quantum of maintenance. The Petitioner asserts that the Respondent, being a college graduate, is capable of earning and sustaining herself. However, a mere assertion to this effect is not sufficient. It is a settled principle that the burden to prove a wife's independent income or financial capacity rests upon the husband. In the present case, beyond making a bare allegation, the Petitioner has not produced any credible material to establish that the Respondent is gainfully employed or earning a stable income. No salary slips, employment records, bank statements have been furnished to substantiate the claim that the Respondent is engaged in remunerative work.



In the absence of such evidence, this Court finds no reason to disbelieve the Respondent's categorical assertion that she has no source of income and is dependent on her family for survival.

7. Further, the Supreme Court in the case of **Rajnesh v. Neha & Anr.**⁹ has held that a wife cannot be denied maintenance merely because she is educated or was previously employed. The Court emphasized that the test is not whether she is employable, but whether she is actually earning or has independent financial means. In the present case, no evidence was led by the Petitioner to substantiate that the Respondent is earning any livelihood on her own. Thus, the contention of the Petitioner that the ratio laid down in the abovementioned case has not been appreciated by the Trial Court or the Appellate Court, is untenable.

8. As regards the Petitioner's contention that the Respondent failed to produce any documentary evidence to substantiate her monthly expenses, it must be noted that maintenance is not determined with mathematical precision, but rather on a *prima facie* assessment of the financial status of both parties¹⁰. While documentary proof of expenses can serve as supporting material, its absence does not automatically disentitle a spouse from receiving maintenance, particularly when the income affidavits and bank statements, establishes economic disparity. Pertinently, both the Courts below observed that the Respondent's bank statements, spanning from December 2017 to December 2020, consistently reflected a meagre balance, reinforcing her claim of financial dependence. In contrast, the Petitioner's bank statements indicated a stable and substantial balance, corroborating his

⁹ (2021) 2 SCC 324

¹⁰ **Bharat Hegde v. Saroj Hegde**, 2007 SCC OnLine Del 622.



financial capacity.

9. In light of the foregoing discussion, this Court finds no infirmity in the assessment of interim maintenance as determined by the Trial Court and upheld by the Appellate Court. The determination is based on the financial disclosures made by both parties, the material placed on record, and settled legal principles governing maintenance. The sum of ₹14,000/- awarded to the Respondent is neither excessive nor arbitrary but a reasonable amount based on the Petitioner's earning capacity and the Respondent's financial dependence.

10. Dismissed along with pending applications.

SANJEEV NARULA, J

MARCH 10, 2025

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