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

% ***Date of decision: 06th August, 2025***

+ CRL.REV.P.(MAT.) 110/2025, Crl.M.A. Nos. 7495-97/2025

SAURABH KATIYAR Petitioner

Through: Mr.Karan Bajaj, Advocate

versus

STATE G.N.C.T. OF DELHI AT NEW DELHI & ORS

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for State

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (ORAL)

1. Petitioner before this court, aggrieved against an order dated 23.10.2024 passed by the learned Judge, Family Courts, East District, Karkardooma Courts whereby interim maintenance of Rs.35,000/- been awarded to respondent No. 2 (his wife) and respondent no. 3 (his minor son).

2. Marriage of the petitioner with respondent No.2 took place on 21.05.2018 and they were blessed with a son out of the wedlock. However, subsequently the same seems to have fallen on the rocks and currently they have living separately and undergoing matrimonial litigation.

3. Succinctly speaking, the relevant facts, shorn of unnecessary details, as pleaded are :-

3.1. The Petitioner married Respondent No. 2 on 21.05.2018 in Delhi, when he was working as an Assistant Manager at SAIL and she was



employed as an Admin Executive, being well-qualified with postgraduate degrees. In June 2019, Respondent moved to Bokaro to live with the Petitioner but soon disputes arose due to her alleged abusive and arrogant behavior towards him and his family.

3.2. Despite efforts to resolve the issues, she left Bokaro on 04.03.2019 citing job interviews in Delhi, taking most of her belongings. In March 2019, it was discovered that she was pregnant while she was staying with her parents in Faridabad. On 10.05.2019, she returned briefly to Bokaro but refused to reconcile. She then declared her decision to live separately. Later, after a hospital visit during pregnancy, she again left Bokaro on 13.05.2019. On 09.11.2019, she gave birth to a son who is in her custody.

3.3. Subsequently, Respondent, stating that she is unemployed, filed a petition under Section 125 CrPC in Delhi (MT No. 71/2022) claiming ₹70,000 per month as maintenance. Initially, by order dated 09.05.2022, the court granted ad-interim maintenance of ₹10,000 for her and ₹5,000 for the child.

3.4. During pendency of proceedings, in her first affidavit filed on 11.02.2022, respondent assessed monthly expenses of ₹55,000 for herself and ₹25,000 for the child, stating she lived at her parental home.

3.5. In her second affidavit filed on 30.01.2023, the Respondent assessed monthly expenses of ₹62,000 for herself and ₹34,000 for the minor child, and further claimed that she had been residing in a rented flat at Noida since June 2019 on a monthly rent of ₹4,000/- under a rent agreement dated 21.06.2019, which is contradictory of her earlier claim.

3.6. In July 2022, the Respondent also filed another petition under Section 125 CrPC at Bokaro claiming ₹60,000 as maintenance and stating that she



was residing with her parents, during the pendency of the earlier proceedings in Delhi. The said petition was later withdrawn on 09.02.2023.

3.7. On 23.10.2024, the Family Court at Delhi awarded interim maintenance of ₹35,000 per month.

3.8. Hence the instant petition impugning the maintenance order, stating that it is excessive and unfair.

4. I have heard the learned counsel for the petitioner who *inter-alia* argues on the lines of grounds taken in the petition which are as below:-

4.1. That the Family Court gravely erred in awarding interim maintenance of ₹35,000 per month to Respondent No. 2 and their child, as the decision ignored several critical facts and legal principles and ignoring her qualifications, possible earnings from tuition and drama (~₹40,000), holding that the same is a matter of trial, despite her inconsistent statements.

4.2. That Respondent No. 2 is highly qualified, holding postgraduate degrees, and has been employed since 2011 in various roles. Even after marriage, she was actively seeking employment in Bokaro, and WhatsApp chats from March 2019 clearly show she left the matrimonial home to attend interviews in Delhi due to lack of suitable opportunities in Bokaro. This shows that she has always been career-oriented and capable of maintaining herself.

4.3. That, notwithstanding as above, the Family Court failed to consider her earning potential and wrongly deferred the question of whether she currently earns around ₹40,000 per month through tuition and drama activities, even though evidence such as photographs was presented to show her engagement in drama work;

4.4. That the Family Court also overlooked the settled legal requirement



under Section 125 CrPC that before granting interim maintenance, it must determine whether the husband has neglected or refused to maintain the wife and whether the wife is unable to maintain herself. These essential findings were not made.

4.5. Furthermore, Respondent No. 2's affidavits of assets, liabilities, and expenditure contained contradictory and unsubstantiated claims. In the first affidavit, she stated that she resides with her parents and claimed expenses of ₹55,000 for herself and ₹25,000 for the child. In the second, she increased these to ₹62,000 and ₹34,000 respectively and claimed to have lived in a rented Noida flat since June 2019 with a rent of ₹4,000, producing a rent agreement over a year after filing for maintenance. This contradicts her earlier statements in affidavits and pleadings in both the Delhi case and the Bokaro case, where she claimed to live with her parents. The rent agreement is an afterthought to justify inflated expenses.

4.6. Moreover, Respondent No. 2 filed another Section 125 CrPC petition in Bokaro in July 2022, claiming ₹60,000 per month while concealing the ongoing Delhi proceedings, which she later withdrew. This clearly reflects her inconsistent and opportunistic approach, making exaggerated claims in different forums.

4.7. That the Family Court also ignored that she has never explained how she manages alleged monthly expenses of nearly ₹1 lakh without income and whether child-related costs are included in her general expenses. Yet, such whimsical figures were accepted without scrutiny.

4.8. That the Family Court wrongly concluded that the Petitioner exaggerated his expenses or concealed income. His affidavit clearly listed his liabilities: ₹10,000 towards rent for a Delhi accommodation where his



widowed mother and unemployed brother live, ₹15,000 per month paid as ad-interim maintenance under the previous order, and around ₹14,000 for existing loan EMIs, totaling approximately ₹40,000 monthly expenses. All this was supported by pay slips, account statements, and even details of an additional two-wheeler loan taken in February 2024, whose EMI is ₹5,611. Despite this evidence, the Court speculated that loans were taken to evade maintenance, which the Learned Counsel for the Petitioner argues is a baseless and far-fetched assumption since deductions for earlier loans were constant throughout and any fluctuation in net salary was due to other deductions.

4.9. That Respondent No. 2 voluntarily left the matrimonial home without sufficient cause and is fully capable of earning. Granting ₹35,000 as interim maintenance, therefore, is excessive, unreasonable, and contrary to the principle that maintenance must be fair and realistic, not oppressive or beyond the husband's means. The order, according to the Petitioner, disregards both the Respondent's earning capacity and the Petitioner's genuine financial obligations, amounting to a miscarriage of justice.

5. Having heard the learned Counsel for the Petitioner and on perusal of the petition along with the material appended therein and particularly the reasoning assigned by the learned Judge of the Family Court in the impugned order, I am of the view that no interference is warranted by this court. Let us see how.

6. First and foremost, perusal of the impugned order reveals that it is, inter alia, premised on the reasoning by relying on *Jasbir Kaur Sehgal v.*



*District Judge, Dehradun and Others*¹, which held that maintenance should be reasonable, *Bharat Hegde v. Saroj Hegde*², which outlined factors like the status of parties, reasonable needs, income and property of both parties, and dependents, and *Rajnish v. Neha & Anr.*³, which clarified that interim maintenance is not punitive but intended to prevent hardship. The Family Court also took guidance from *Annurita Vohra v. Sandeep Vohra*⁴, which suggested that the family income should be equitably shared, generally two shares to the earning spouse and one share to each other member.

7. Examining the financial status of the respondent-husband, the Family Court noted that his net monthly salary was around ₹65,411 in May 2022 and ₹58,190 in January 2023 after deductions, with gross salary between ₹1,30,560 and ₹1,41,264. It disregarded deductions of about ₹12,000 towards a cooperative loan because the loan had been taken after the initiation of proceedings and appeared to have been done with the intention of reducing maintenance liability. The husband claimed his monthly expenditure was ₹80,500 and an additional ₹20,000 for his widowed mother and unemployed brother, but the Court found no evidence to support the claim of dependency. The Family Court observed that his claimed expenses exceeded his income, indicating either concealment of earnings or exaggeration of expenses.

8. With respect to the wife's earnings, the learned Family Court recorded that allegations about her earning ₹40,000 per month through tuition and drama activities could not be substantiated with evidence at this

¹AIR 1997SC 339

²140(2007) DLT 16

³(2021) 2 SCC 324

⁴110 (2004) DLT 546



stage and would be decided at trial. The Family Court thus proceeded on a prima facie basis, keeping in mind the statutory obligation of the husband and the need to ensure that the wife and child are not left without support during the pendency of the case. It concluded that an amount of ₹35,000 per month as interim maintenance for both the wife and child together would be reasonable in the circumstances. The Family Court directed that arrears be cleared within three months and that interim monthly maintenance be paid by the 15th of every month through bank transfer, with any amount already paid to be adjusted.

9. Learned Family Court based its interim arrangement relying on the record presented before it. Since the matter was at a very preliminary stage *sans* adducing of any evidence by either parties, it formed a *prima-facie* opinion that as an interim arrangement, given that the respondent wife was found to be in the state of vagrancy and a destitute coupled with the custody of the minor son whose welfare, no doubt, is of paramount importance both for petitioner and respondent number 2 (being the parents), a sum of Rs. 35,000/- per month was directed to be paid towards interim maintenance with the factum with date of filing of the application.

10. I may at the very threshold observe that, I see nothing wrong with the view taken by the learned Family Court and ordinarily on this count alone the petition deserves to be dismissed.

11. However, I have my own reasons in support of the view taken by the learned Family Court.

12. The husband has a statutory and moral obligation under Section 125 CrPC to maintain his wife and child, which cannot be avoided by citing discretionary expenses or artificial liabilities such as loans taken after



litigation began. His claimed expenses exceeding his declared income suggest concealment or exaggeration. The alleged dependency of his mother and brother appears to be a bald claim subject what is held finally on conclusion of the trial.

13. Considering current living costs, education, and medical needs, ₹35,000 is a reasonable and modest amount, not excessive. The claim that the wife earns ₹40,000 lacks evidence at this stage, and mere allegations cannot defeat interim maintenance, which aims to ensure immediate support and dignity during proceedings, as affirmed in *Rajnish v. Neha*⁵.

14. Further, applying the share-based formula from *Annurita Vohra*⁶, as per the entitlement, the awarded amount is fair and balanced for maintenance of wife and the child.

15. In view of the aforesaid I find no grounds to interfere. The petition stands dismissed.

ARUN MONGA, J

AUGUST 6, 2025/Sv

⁵Supra note at 3.

⁶Supra note at 4.