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

+ **W.P.(CRL) 1025/2023 & CRL.M.A. 9593/2023**

ABHISHEK KUMAR

.....Petitioner

Through: Petitioner in person.

versus

NEHA LAL

.....Respondent

Through: Mr. Anuj Prakaash, Mr. Niraj Dubey,
Mr. Pradum Kumar and Mr. Gaurav
Chahal, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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01.08.2025

1. The present proceedings arise from a petition filed by Respondent under Section 125 of the Code of Criminal Procedure, 1973¹ seeking maintenance from the Petitioner.
2. The said petition was adjudicated and disposed of by an order dated 07th February, 2019. Although the Petitioner has challenged the said order before this Court by way of CRL. REV. P. 441/2019, which is pending consideration, he has also filed an application [MT No. 151/2021] under Section 127(2) read with Section 125(4) of CrPC before the Trial Court seeking recall/annulment of the order dated 7th February, 2019. The said application is also pending adjudication.
3. In the course of proceedings before the Trial Court, the Petitioner moved yet another application under Section 10 of the Family Courts Act, 1984, seeking directions to the Respondent to produce their minor child



before the Court, asserting that he had not seen his child since birth and wished to meet him in person. The reliefs sought in the said application read as follows:

- “1. Kindly direct respondent-wife to physically produce the baby of petitioner-husband along with the birth certificate of baby before this Hon'ble Family Court.
2. Kindly discover and ascertain the truth of the baby of petitioner-husband.
3. Pass any further order or directions which this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of Justice.”

4. The afore-noted reliefs are premised on the Petitioner's allegations that the Respondent is concealing the fact of having delivered a child. According to the Petitioner, the Respondent had earlier claimed she was pregnant but had suffered a miscarriage/forced abortion. However, the Petitioner contends that this assertion was never substantiated on record, as the Respondent failed to produce any credible proof in that regard. On that basis, the Petitioner alleges that the child is in fact alive and being kept in the secret custody of the Respondent.

5. The Family Court considered the Petitioner's application on merits and, upon examining the pleadings, the respondent's reply and her statement, found no ground to grant the relief sought. The Court took the view that the reference to a “son” in the pleadings may have been a typographical error and saw no reason, at that stage, to disbelieve the Respondent's version. The Court accordingly dismissed the application, while making it clear that the observations were *prima facie* in nature and would not affect the final adjudication of the pending proceedings. The

¹ “CrPC”



operative portion of the order reads as under:

“In petition u/s 127 (2) Cr.P.C. filed by petitioner Abhishek Kumar(husband) an application was filed by the petitioner u/s 10 of the Family Courts Act to discover and ascertain the truth of baby and to direction to the respondent wife to produce the baby along with his birth certificate. Reply to this application has been filed by respondent. Copy given. Time requested for rejoinder. In my opinion, keeping in view the stands taken by parties on this issue, filing of rejoinder will only further delay the matter. In view of the submissions made in application and reply, statement of respondent (Wife) recorded separately.

*Heard. **In view of the statement of the respondent wife and the pleadings and proceedings of 125 Cr.P.C., I am convinced that there might be some typographical error in mentioning the son but no further.....direction is required on the application of the petitioner. There is no reason at this stage to prima-faciely disbelieve the statement of the respondent / wife.** In view of the above discussion, application filed by petitioner / husband is hereby dismissed. **However, it is made clear that this a prima-facie view of the matter and any expression / observation in this order will not effect any proceedings between the parties before this court or any other court. Application is accordingly disposed off.***

Petitioner requested for adjournment on further arguments in terms of previous orders on pending applications as her advocate is not present today.

*Put up for arguments/purpose fixed on 08.05.2023 at 02:00 PM.
Copy of the order be given Dasti.” [SIC]*

[Emphasis Supplied]

6. The Petitioner, appearing in person, submits that the Family Court erred in dismissing his application and insists that the Court ought to have compelled the Respondent to produce their minor child, along with the child’s birth certificate. He alleges that the Respondent is concealing the very fact of childbirth and reiterates that the Family Court should have gone further to ascertain the truth under Section 10 of the Family Courts Act, 1984.

7. This Court has considered the above contentions and finds them



devoid of any merit. The impugned order reflects a judicious evaluation of the pleadings and submissions advanced before the Family Court. Upon perusal of the impugned order and the record, it is evident that the Petitioner's application was premised on a speculative assertion, unsupported by any *prima facie* material. The Family Court was not expected to engage in a roving inquiry, particularly where the Respondent had already clarified that any reference to the "son" in the proceedings was inadvertent and typographical. The Court, having recorded the Respondent's statement and considered the context of the pleadings under Section 125 of CrPC, rightly declined to disbelieve the clarification at that stage.

8. In the absence of any tangible material or circumstances warranting judicial intervention, the Family Court was justified in declining the relief sought. It bears repetition that Section 10 of the Family Courts Act, 1984 does not empower the Court to embark upon speculative fact-finding enquiry, especially where there is no substantive basis. Pertinently, the impugned order is explicitly confined to a *prima facie* assessment, with the Family Court making it clear that its observations would not influence the final adjudication of the pending proceedings. Therefore, this Court finds no infirmity, jurisdictional or procedural, in the view taken by the Family Court.

9. Furthermore, it is pertinent to note that the underlying proceedings under Section 125 of CrPC, as well as the application under Section of 127 CrPC currently pending before the Family Court, do not contain any express prayer for maintenance on behalf of the minor child. The entire issue, as framed, pertains to the entitlement and variation of maintenance in favour of the Respondent alone. In this backdrop, the Petitioner's attempt to invoke



Section 10 of the Family Courts Act, 1984 to seek directions for physical production of the child, ostensibly to “ascertain the truth”, is evidently beyond the scope of the pending proceedings. The Family Court was therefore correct in declining to entertain such relief, which does not arise from the pleadings or the statutory framework governing maintenance proceedings under Chapter IX of CrPC.

10. In light of the foregoing, the instant petition is entirely misconceived. Dismissed, along with pending application.

SANJEEV NARULA, J

AUGUST 1, 2025

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