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

+ **CRL.REV.P.(MAT.) 116/2025**

**RADHE SHYAM ROY**

.....Petitioner

Through: Mr. Mayank Manish, Mr.  
Ravi Kant, Mr. Vineet  
Upadhyay and Mr. Jayant  
Dubey, Advocates.

versus

**KALPANA KUMARI**

.....Respondent

Through: Mr. Keshav Raj,  
Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

% **29.10.2025**

**CRL.M.A. 31755/2025** *(for early hearing of the present petition)*

1. The present application is filed by the petitioner seeking early hearing of the present petition which is listed for hearing on 22.12.2025.
2. For the reasons mentioned in the application, the same is allowed.
3. With the consent of learned counsel for both the parties, the present petition is taken up for arguments today.
4. The application stands disposed of.
5. The date already fixed stands cancelled.

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6. The present revision petition is filed by the petitioner against the order dated 08.08.2024 (hereafter '**impugned order**') passed by the learned Judge, Family Court, Saket, Delhi in MT



Cases No. 164/2024.

7. By the impugned order, the learned Family Court granted *ad-interim* maintenance of a sum of ₹1,00,000/- per month to the respondent from the date of filing of the application of interim maintenance, that is, 01.05.2024 till the disposal of the application for interim maintenance. The learned Family Court noted that as per the income affidavit filed by the respondent, she stated that she had no source of income and the petitioner, on the other hand, was stated to be running medical colleges and earning an income of ₹45 lakh – 50 lakhs per month.

8. The learned Family Court also noted that the petitioner was duly served through WhatsApp, however, no one appeared on behalf of the petitioner despite service of notice. It was further noted that the registered letter sent to the petitioner also returned with the remark ‘refused.’

9. The learned counsel for the petitioner submits that the learned Family Court erred in awarding *ad interim* maintenance to the respondent. He submits that the respondent had stopped living with the petitioner from the year 2011 and the petition under Section 125 of the Code of Criminal Procedure, 1973 (‘CrPC’) was filed only in the year 2024. He submits that in terms of Section 125(4) of the CrPC, the wife is not entitled to receive any maintenance if she refuses to live with her husband without any sufficient reason. He submits that no reason was given by the respondent as to why she was living separately from the petitioner, and that in such circumstances, the respondent is not entitled to receive any maintenance in terms of Section 125(4) of the CrPC.



10. Clearly, the impugned order is only an *ad-interim* order. It is not disputed that the application for relief of interim maintenance is still pending consideration before the learned Family Court. In such circumstances, any petition under Section 397 of CrPC, challenging the interlocutory order would not be maintainable at this stage.

11. At this stage, the factum that the respondent is the wife of the petitioner has not been disputed. Insofar as the arguments of the petitioner in relation to the desertion by the respondent without any sufficient cause and the same disentitling the respondent to grant of any maintenance in terms of Section 125(4) of the CrPC is concerned, the same is a subject matter of trial and the said aspect would have to be decided after the parties have led their evidence.

12. As noted above, the impugned order is only an *ad-interim* order and the same cannot be challenged invoking the jurisdiction of this Court under Section 397 of the CrPC. Parties are at liberty to take all arguments at the stage of consideration of interim maintenance.

13. The present petition is accordingly dismissed.

**AMIT MAHAJAN, J**

**OCTOBER 29, 2025/DU**