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

+ CRL.REV.P. 259/2019,

SMT. KIRAN

.....Petitioner

Through: Mr. P.K. Nayyar, Advocate.

versus

TARA CHAND

.....Respondent

Through: Mr. Tara Chand Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **19.02.2025**

CRL.M.A. 4968/2019 (delay in filing)

1. For the grounds and reasons stated in the application, the same is allowed and the delay in filing the petition is condoned.
2. Disposed of.

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3. The present petition assails order dated 7th September, 2018¹ in MT No. 5861341/2016 whereby the Principal Judge, Central District, Family Court, Tis Hazari Courts allowed the Petitioner's petition under Section 125 of the Code of Criminal Procedure, 1973.² The relief granted to the Petitioner for award of maintenance is as follows:

"24. In view of the foregoing discussion, the present petition is allowed, thereby directing the respondent husband to pay maintenance @ Rs.4,000/- per month to the petitioner wife from the date of filing of the present petition i.e. 26.08.2010 till 31.12.2015. Further, the respondent

¹ "the impugned order"

² "Cr.P.C."



husband shall be liable to make payment Rs.8,000/- per month to the petitioner wife w.e.f. 01.01.2016 till such time the petitioner wife is alive or legally not dis-qualified from claiming maintenance. The maintenance shall be payable by the 10th of each succeeding month which be deposited in the bank account of the petitioner wife. Failing which, the respondent-husband shall be liable to pay penalty/cost of Rs. 150/- per day. The petitioner-wife is also awarded litigation costs of Rs.22,000/-.

25. The respondent husband is directed to clear the arrears of maintenance to the petitioner wife in twelve equal monthly installments starting w.e.f. 01.10.2018 payable by the 10th of each succeeding month, failing which the entire arrears of maintenance shall fall due and recoverable as per law.

26. The present petition is disposed of.

27. File be consigned to the record room."

4. Aggrieved by the afore-noted order, the Petitioner has filed the instant petition seeking modification of the maintenance amount. She submits that she does not have any source of income to maintain herself and the Respondent has neglected to maintain her. Moreover, in the final order, there is no provision for granting any enhancement whereas the Respondent would have received increments in his pension over the period of time.

5. The Court has considered the afore-noted contentions. The reasoning given in the Trial Court for award of the maintenance is as follows:

"23. The sum and substance of the above discussion is that at the time of the filing of the petition, the respondent husband was drawing pension of Rs.8,466/- per month, which as on today has increased to Rs.18,933/- per month subsequent to implementation of the recommendations of the 7th Pay Commission w.e.f. 01.01.2016. In view of the fact that respondent husband has tried to conceal material facts from this Court and has not disclosed his real income from all sources, it would be safe to assume that he must have been earning handsomely over and above his pensionary income. The respondent husband has no other liability except to maintain his legally wedded wife. His plea that his elder daughter is dependent upon him does not cut much ice since the husband of the elder daughter is also working as a peon in the District Court. It would be fair to assume that the respondent husband has been having additional income of Rs.10,000/- to Rs.15,000/- per month on an average / mean basis over the year."



6. It is noticed that at the time of passing of the impugned order, the pension of the Respondent was INR 18,933 per month subsequent to the implementation of the 7th Pay Commission. Considering the same, the Trial Court awarded a maintenance of INR 8,000/- per month w.e.f. 1st January, 2016.

7. At this juncture, counsel for the Respondent, on instructions, states that the Respondent is now aged 80 years, nonetheless, he is willing to enhance the maintenance amount.

8. Accordingly, with the consent of the Respondent, the present petition is disposed of with the following directions:

- i. The Respondent shall pay monthly maintenance of INR 10,000 w.e.f. 1st January, 2020 and INR 12,000/- per month w.e.f. 1st January, 2025/- to the Petitioner.
- ii. The arrears for the period from 2020 to 2024 and for the year 2025 shall be paid in six monthly instalments to the Petitioner.

9. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

FEBRUARY 19, 2025

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