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

+ **CRL.REV.P.(MAT.) 134/2025**

RAKESH SHARMAPetitioner

Through: Mr. K.B.B. Singh, Adv.

versus

RAKHIRespondent

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **26.03.2025**

CRL.M.A. 9122/2025 (*exemption from filing certified / typed copies of the annexures*)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.A. 9124/2025 (*condonation of delay of 66 days in filing the present petition*) & **CRL.M.A. 9125/2025** (*condonation of delay of 15 days in re-filing the present petition*)

3. For the reasons mentioned in the applications, the same are allowed and the delay in filing and re-filing the present petition is condoned.
4. The applications stand disposed of.

CRL.REV.P.(MAT.) 134/2025 & CRL.M.A. 9123/2025 (*stay*)

5. The present petition is filed challenging the order dated 30.08.2024 (hereafter '**impugned order**'), passed by the learned Principal Judge, Family Court, North West District, Rohini, Delhi in Mt. Case 266/2023.
6. By the impugned order, the learned Family Court, in an

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application filed by the respondent under Section 125 of the Code of Criminal Procedure, 1973 ('CrPC') awarded interim maintenance of ₹11,000/- per month to the respondent.

7. It is not disputed by the petitioner that he is earning ₹32,000/- per month.

8. The grievance of the petitioner is that the interim maintenance of ₹11,000/- per month is at a higher side.

9. The learned counsel for the petitioner submits that the petitioner also has to maintain his parents and is paying a sum of ₹10,000/- per month to his parents as interim maintenance awarded in a petition filed by his parents.

10. He submits that the respondent is well-educated, with a Master's degree in Commerce. She is pursuing B.Ed. Course and is capable to earn her livelihood.

11. Section 125 of the CrPC is a provision designed to provide a quick remedy to those who are unable to maintain themselves. The primary objective of the provision is to prevent vagrancy and destitution by ensuring that those who are dependent on another for their subsistence, such as a wife, children, or parents, receive financial support when they are unable to maintain themselves.

12. The law laid down by Hon'ble Apex Court in the case of *Shamima Farooqui v. Shahid Khan* : (2015) 5 SCC 705, is condign to quote hereunder:

"18. From the aforesaid enunciation of law it is limpid that the obligation of the husband is on a higher pedestal when the question of maintenance of wife and children arises. When the woman leaves the matrimonial home, the situation is quite different. She is deprived of many a comfort. Sometimes the faith in life reduces. Sometimes, she feels she has lost the tenderest friend. There may be a feeling that her fearless courage has brought her the misfortune. At this stage, the only comfort that the law can impose is that the husband is bound to give monetary



comfort. That is the only soothing legal balm, for she cannot be allowed to resign to destiny. Therefore, the lawful imposition for grant of maintenance allowance.”

13. Petitioner has not disputed the relationship with respondent. It is not disputed that no evidence has been led at this stage to show that the respondent is gainfully employed or is not in need of maintenance. The petitioner in the absence of any evidence to the contrary is obligated to maintain respondent.

14. As noted above, the petitioner has not disputed that he is earning ₹ 32,000/- per month. This Court in ***Annurita Vohra v. Sandeep Vohra : 2004 (74) DRJ 99***, held that the Family Resource Cake which includes the incomes of the both the husband and the wife is to be distributed among the family members. The allocation of this “cake” should align with the financial needs of each family member, and an equitable approach would involve dividing the Family Resource Cake into two portions for the Husband, acknowledging his additional expenses incurred in earning, and one portion each for the other members should be taken.

15. In line with the dictum of this Court in ***Annurita Vohra Vs. Sandeep Vohra (supra)***, it is seen that the interim maintenance for a sum of ₹11,000/- per month to the respondent is reasonable.

16. Even otherwise, the present order is only an order of interim maintenance. The defences raised by the petitioner, along with the allegations and counter allegations, would be the subject matter of the trial, and would have to be decided after the parties have led their evidence. The petitioner is at liberty to lead evidence in order to show that the respondent is not in need of



any maintenance or is gainfully employed.

17. In view of the above, this Court finds no reason to interfere with the impugned order, and the petition is dismissed in the aforesaid terms.

18. The learned Family Court is directed that the final order be passed in the case uninfluenced by the findings made in the impugned order or this order.

19. Needless to say, Petitioner would be entitled for adjustment if any amount is being paid by him as maintenance under any other proceedings.

20. The present petition is, therefore, dismissed.

AMIT MAHAJAN, J

MARCH 26, 2025

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