



2025:DHC:11338



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

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*Judgment reserved on: 02.12.2025**Judgment pronounced on: 15.12.2025**Judgment uploaded on: 20.12.2025*+ **CRL.REV.P. 455/2024, CRL.M.A. 27255/2024, CRL.M.A. 1024/2025, CRL.M.A. 1872/2025 & CRL.M.A. 4748/2025**

ABHILASHA CHAUHAN

.....Petitioner

Through: Mr. Mohit Mathur, Sr. Advocate along with Mr. Rohit Singh, Mr. Vignesh, Mr. Harsh, Mr. Raghav Raman, Ms. Nitya Sheikh, Ms. Jasmine Sheikh, Ms. Muskan Rathee, Advocates.

versus

ANKUR RAJPUT & ORS.

.....Respondents

Through: Mr. Gaurav Gupta and Mr. Sirish Gupta, Advocates

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present revision petition, the petitioner seeks setting aside of the order dated 03.01.2024 [hereafter '*impugned order*'], passed by the learned Principal District and Sessions Judge Court [hereafter '*Sessions Court*'] *vide* which the appeal filed by the petitioner-wife under Section 29 of the Protection of Women from



Domestic Violence Act, 2005 [hereafter '*PWDV Act*'] was dismissed and the order dated 21.02.2022 passed by the learned MM (Mahila Court-02), Dwarka Courts, Delhi [hereafter '*Trial Court*'] was upheld.

2. Briefly stated, the facts of the present case are that the marriage between the petitioner and respondent no. 1 was solemnized in Delhi according to Hindu rites and customs on 24.11.2017. The petitioner-wife alleges that soon after marriage, her in-laws expressed dissatisfaction over dowry, took her jewellery, and subjected her to cruelty. Out of the said wedlock, a son was born on 05.11.2018, but prior to that, she was allegedly forced to leave the matrimonial home on 26.03.2018, and since then, she has been residing with her parents along with her minor child. The petitioner thereafter filed a complaint under Section 12 of the PWDV Act, along with an application under Sections 23(1), 23(2), 18, 19, 20, and 22 of PWDV Act.

3. By way of order dated 10.09.2018, the application under Section 23 of PWDV Act was decided by the learned Trial Court. After assessing the respondent-husband's income at ₹12–15 lakhs per annum and considering the fact that the petitioner-wife though had been working till June 2018 and earning ₹50,000/- per month but was now pregnant and could not be expected to work, the Trial Court had awarded ₹25,000/- per month to the petitioner-wife and ₹10,000/- per month to the child from the date of birth, as interim maintenance.

4. However, her application under Sections 19 of PWDV Act



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seeking residence orders was dismissed *vide* order dated 21.02.2022, after observing that the complainant and her child were receiving ₹35,000/- per month as interim maintenance from the respondent and thus she was in a position to arrange a suitable accommodation for herself.

5. The learned Sessions Court, in appeal, *vide* the impugned order dated 03.01.2024, observed that the petitioner holds MBA and LLB degrees, was getting maintenance in the sum of ₹35,000/- per month, and had not resumed her job after her sabbatical; thus, the learned Trial Court's finding that she could manage her residence was upheld.

6. Aggrieved by the aforesaid orders, the learned senior counsel appearing for the petitioner-wife argues that the impugned order passed by the learned Sessions Court suffers from serious infirmities, as both the courts below have failed to appreciate the incidents of cruelty inflicted upon her and the subsequent conduct of the respondent-husband. It is contended that the respondent has been living in an adulterous relationship, a fact confirmed by the Investigating Officer in the supplementary chargesheet filed under the case pertaining to offence under Section 498A of IPC, and has even fathered a child from that relationship, while completely neglecting his legally wedded wife and legitimate son. The learned senior counsel submits that the Courts below have overlooked the respondent's assets, properties, and affluent standard of living at the time of marriage, which stand substantiated through documentary



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evidence and photographs placed on record. It is further argued that the respondent has deliberately concealed his true income and misled the court by conducting most of his transactions in cash to evade disclosure. The learned senior counsel submits that the petitioner is entitled to maintenance and residence commensurate with the standard of living she enjoyed in her matrimonial home, which the courts below have failed to consider. It is also urged that the petitioner lost her employment on account of compelling circumstances beyond her control as she was on sabbatical leave following childbirth and could not rejoin work as her minor son, a special child suffering from chronic epilepsy, requires constant care and supervision. The respondent's conduct in filing around fifteen litigations against her has further constrained her ability to seek or maintain employment, as she is required to attend court proceedings frequently. In these circumstances, the learned senior counsel submits, it is neither reasonable nor practical to expect the petitioner to take up work and arrange for her residence by herself. It is therefore prayed that the impugned order, by which her claim to reside in the shared household was denied, be set aside and the present petition be allowed.

7. The learned counsel appearing for the respondent no.1-husband, on the other hand, argues that the impugned order passed by the learned Sessions Court is well-reasoned and calls for no interference. It is contended that the petitioner-wife has deliberately concealed her true income and misrepresented the respondent's



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financial position. She is not an “aggrieved person” under the PWDV Act and is therefore not entitled to the reliefs claimed. It is submitted that the petitioner is highly qualified, having previously worked with an MNC in Gurugram, Haryana, earning ₹50,000/- per month, and is presently practicing as a lawyer with an income of ₹1,00,000/- per month. Being financially independent, she is fully capable of maintaining herself and securing her accommodation. The learned counsel further submits that the Property no.WZ-551A/ H-26, Naraina Village, New Delhi was joint property and the same has already been partitioned amongst its co-owners, and the respondent no. 2 (father of respondent no. 1) has sold his share in the said house and took two rooms on rent in the said premises. The petitioner-wife never resided in the second floor of said property as a shared household. Further, it is stated that the respondent no. 1-husband is residing separately on rented accommodation at WZ-1108B, Basari Darapur, New Delhi. It is argued that the allegations regarding ownership of vehicles, agricultural land, or additional assets are false. It is also submitted that *vide* order dated 25.10.2024, the learned Trial Court has already enhanced the interim maintenance of the wife by ₹7,000/- and thus, she is now receiving ₹42,000/- per month. In these circumstances, it is urged that the learned Trial Court and the learned Sessions Court have rightly held that the petitioner, being financially secure, is not entitled to any separate order for residence under the DV Act.

8. This Court has **heard** the arguments addressed by the learned



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counsel for the petitioner and learned counsel for the respondents, and has perused material on record.

9. The present revision petition has been preferred against the concurrent findings of the learned Trial Court and the learned Sessions Court, whereby the petitioner's plea for residence orders was declined taking note of the fact that she was already receiving interim maintenance of ₹35,000/- per month.

10. In the present case, the learned Trial Court has recorded that the petitioner-wife had been employed prior to birth of minor child, and had gone on sabbatical leave during pregnancy, but she had not resumed regular employment thereafter. On the other hand, the respondent-husband's income was assessed at about ₹12–15 lakhs per annum. On that premise, interim maintenance of ₹25,000/- per month for the petitioner-wife and ₹10,000/- for the minor child (from the date of birth) was directed to be paid by the husband. The learned Sessions Court also examined the same record, noticed that the petitioner is was well-qualified (MBA, and later LL.B.), and affirmed the Trial Court's order holding, *inter alia*, that allegations of cruelty/adultery were not to be adjudicated at the interim stage.

11. This Court also notes that during the pendency of the present petition, the petitioner-wife had moved an application before the learned Trial Court seeking enhancement of interim maintenance, *inter alia*, on the ground that the minor child, born on 05.11.2018 after the passing of the initial order dated 10.09.2018, was



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subsequently diagnosed with epilepsy and required continuous medical care and treatment, resulting in additional recurring expenses. Taking note of the said medical condition and the material placed on record, the learned Trial Court, *vide* order dated 25.10.2024, had enhanced the interim maintenance by a sum of ₹7,000/- per month towards the medical expenses of the minor child. The appeal against the said order filed by the husband stands dismissed by the Sessions Court. Consequently, the petitioner-wife and the minor son are presently receiving a total amount of ₹42,000/- per month as interim maintenance.

12. While it is correct that the petitioner-wife is well-educated and had earlier been gainfully employed and earning approximately ₹50,000/- per month, the record reflects that the parties had separated when she was pregnant. Thereafter, the petitioner has been solely responsible for the care and upbringing of the minor child, who is stated to be suffering from epilepsy and requires constant supervision, regular medical attention, and caregiving. In these circumstances, this Court is of the view that the petitioner cannot be compelled, at this stage, to simultaneously resume employment and manage the special medical needs of the minor child. The mere educational qualifications of the petitioner cannot, by themselves, be determinative of her present earning capacity. In this regard, it would also be apposite to note that the Hon'ble Supreme Court in ***Rajnesh v. Neha***: (2021) 2 SCC 324 had observed that – “...on termination of the relationship, if the wife is educated and professionally qualified,



but had to give up her employment opportunities to look after the needs of the family being the primary caregiver to the minor children, and the elder members of the family, this factor would be required to be given due importance.”

13. The short question that now arises for consideration before this Court is whether the petitioner-wife is entitled to a residence order under Section 19 of the PWDV Act.

14. Without delving further into the observations made in the impugned orders, this Court takes note of the undisputed position that the shared household in which the petitioner-wife had resided prior to her separation, i.e., property bearing no. WZ-551A/H-26, Naraina Village, New Delhi, was a joint family property. It has been brought to the notice of this Court that the said property has since been partitioned, and the share that fell to the respondent no.2, i.e., the father-in-law of the petitioner, has already been sold by him. He is stated to be presently residing in rented accommodation of two rooms within the said premises. In the absence of any subsisting residence or restraining order passed earlier by a competent court, the property having already been partitioned and alienated, the relief sought by the petitioner of being permitted to reside in the said property cannot be granted at this stage. It is also not in dispute that the respondent no.1-husband is himself residing separately in a rented accommodation, and no submission has been advanced on behalf of the petitioner-wife expressing any desire to reside at the said premises.



15. Having regard to the totality of the facts and circumstances of the case, this Court finds that the initial order granting interim maintenance of ₹35,000/- per month did not carve out or exclude any specific component towards rental or residence expenses. It is also relevant to note that in her complaint under Section 12 of the PWDV Act, the petitioner-wife had herself claimed maintenance to the extent of ₹25,000/- per month, though the order granting interim maintenance records a submission that she requires ₹40,000/- per month. This Court further notes that the respondent-husband's income was assessed by the learned Trial Court on the basis of entries reflected in his bank account statements, and not on the basis of any formal employment or salary being received by him, and was assessed to be in the range of about ₹1–1.25 lakhs per month. In that backdrop, the present amount of ₹42,000/- per month being received by the petitioner-wife and the minor child as interim maintenance cannot be said to be either arbitrary or inadequate at this stage. It also bears emphasis that the maintenance granted is only interim in nature, and the final adjudication of the rights and entitlements of the parties is yet to be undertaken by the learned Trial Court after recording of evidence. In these circumstances, and particularly in view of the limited scope of interference in revisional jurisdiction, this Court finds no reason to interfere with the impugned orders.

16. Accordingly, the present revision petition alongwith pending applications, is dismissed.

17. However, considering that the proceedings arise out of a



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complaint instituted in the year 2018, the learned Trial Court is requested to make endeavours to expedite the trial, in accordance with law.

18. It is however clarified that the observations made herein are confined to the determination of interim maintenance and shall not influence the merits of the pending trial, which shall be decided independently based on the evidence led by the parties.

19. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
DECEMBER 15, 2025/zp