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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 15th April, 2025

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CRL.REV.P.(MAT.) 165/2025, CRL.M.A. 11200/2025,
CRL.M.A. 11201/2025

ASEEM RAJPAL

.....Petitioner

Through: Counsel for Petitioner (appearance
not given).

versus

DIVYA DUGGAL

.....Respondent

Through: None

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. Criminal Revision Petition under Section 438/442 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed to challenge the Order dated 19.12.2024 *vide* which the learned Principal District & Sessions Judge, North West District, Rohini Court, Delhi has set aside the Order of learned J.M.F.C., Mahila Court-2, North West District, Rohini Court, Delhi and granted interim maintenance to Respondent/ Divya Duggal in the sum of Rs.15,000/- per month under Section 12 read with Section 23 of Protection of Women against Domestic Violence Act, 2005 (*hereinafter referred to as "DV Act"*).
2. Respondent/Divya Duggal filed a Complaint under Section 12 read with Section 23 DV Act.
3. *It was stated in the Complaint that* the parties got married on



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08.11.2019 at Hotel City Park, Pitampura, Delhi in accordance with Hindu rites and customs. Petitioner/Aseem Rajpal herein was a B.Com graduate and held a Diploma in FrankFinn course and was engaged in the business of music instruments and owned at least four ancestral Music Shops in Chandni Chowk.

4. Apart from this, Petitioner was doing a business of *lemon grass* in the name of *M/s. Dew Fresh Green Tea*. The Respondent (wife) asserted that the Petitioner had an income of not less than Rs.2.5 lakhs per month.

5. The Respondent in her Complaint further stated that she was doing BBA from Kurukshetra University and MBA through distance education from Manipal University. She was residing with her widowed mother at the house of her brother at Gurugram. She claimed to be incurring an expenditure of about Rs.1 lakh per month which included her personal maintenance and petrol expenses of the car. She further asserted that litigation expenses of Rs.2.5 lakhs in all the cases have been incurred by her. The Respondent claimed that she was unemployed but had FDRs of about Rs.5 lakhs approximately which had been gifted to her, by her parents/grandparents.

6. The Petitioner (husband) herein has contended that the Respondent is residing with her mother at Gurugram and is maintaining a lavish lifestyle. She has a lavish car and is also deriving income from her FDRs and savings bank account. As per the ITR of the Respondent for the year 2021-22, she has an yearly income of Rs.98,520/- which is more than the annual income of the Petitioner,



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who was working as a DJ (Disco Jockey) and was earning Rs.8000-10,000/- per month. The Petitioner herein has suffered losses in his business in the year 2016-17, which has not flourished thereafter.

7. It is, therefore, prayed that the Respondent is not entitled to the interim maintenance and the impugned Order be set aside.

8. The *learned J.M.F.C. vide Order dated 05.09.2024* observed that though the Respondent had claimed her monthly expenditure to be Rs.1 lakh, but has not given any details to explain this expenditure. She had claimed that she was unemployed, but it was not clear as to how she was maintaining her expenses. The possibility of exaggeration of her monthly expenses thus, could not be overruled.

9. The learned J.M.F.C. further observed that apparently both the parties come from affluent and upper class and it was not reasonable to assume that the Respondent would have agreed to marry the Petitioner knowing that he was only a Disco Jockey. It was further observed that Respondent had failed to explain her reason for unemployment despite being qualified. ***Consequently, interim maintenance was declined to the Respondent vide Order dated 05.09.2024.***

10. Aggrieved by the Order of learned J.M.F.C., an Appeal under Section 29 D.V. Act was filed by the Respondent before ***learned Sessions Judge who considered the rival contentions and took the earnings of the Petitioner as Rs.50,000/- per month and directed payment of interim maintenance in the sum of Rs.15,000/- per month to the Respondent.***



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11. *The Petitioner aggrieved by this Order of learned Sessions Judge dated 19.11.2024 granting Interim Maintenance, has filed the present Petition.*

12. The impugned Order has been challenged on the ground that the learned Sessions Judge has wrongly presumed the income of the Petitioner as Rs.50,000/- per month without assessing his income as well as considering his income affidavit. Furthermore, some facts have been admitted by the Respondent in her Income Affidavit, which shows that she is maintaining herself and has a good source of income.

13. Moreover, Respondent is an educated woman who has done BBA as well as MBA. During her studies for a short period, she had done internship with Mc.Donald's for six months and had worked with ICICI bank for about one year and was getting a salary of Rs.10,000/- per month. It has not been considered that Respondent has independent source of income as has been mentioned in her detailed income affidavit.

14. Moreover, she has not given the details of her expenses of Rs.1 lakh per month. If she is unemployed, then there is no explanation as to how she is meeting her monthly expenses. Moreover, she is maintaining Maruti Suzuki SX4 car and also meeting all the petrol expenses. Further, she is claiming Rs.2,50,000/- per litigation expenses which further reflect her source of income.

15. Her ITR for the year 2021-22 reflect that she is getting an interest from the FDRs worth Rs.5 lakhs and has Rs.1,10,724/- in her



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saving bank account.

16. Moreover, the Respondent had alleged in her Complaint under Section 12 D.V. Act that her parents had spent about Rs.1 crore in the marriage which reflects that the Respondent comes from an affluent family background.

17. Moreover, they have lakhs of rupees as monthly rental income from the parental factory-cum-residence at G.T. Karnal Road. They have a luxurious bungalow at Sushant Lok, Gurugram apart from a plot in Panipat. She also owns a Flat but has intentionally not disclosed her complete income.

18. The Petitioner has admitted that he had started a new online business of selling *Green Tea, Essential Oil* in the name of *Dew Fresh Greens* in the year 2015-16, but has asserted that the business failed and he had to close it down.

19. Moreover, the documents relied upon by the Respondent to reflect the business and the income of the Petitioner, are based on Google documents uploaded in the year 2015-16 at the time when he started the business, but there are no other documents like GST, bank statement, ITR of Petitioner to show that he has the monthly income as claimed by the Respondent.

20. Furthermore, the Model Town property is undivided family property having 52 legal heirs. The Petitioner is not residing in a lavish bungalow, but only on the second floor of the property along with his parents in a two room set. The other portions of the Model Town property are in the occupation of the cousin brothers and the



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relatives.

21. The Petitioner does not have multiple Music Shops in Chandni Chowk. Many of the shops are in the power and possession of other family members and there is no income, either rental or otherwise, from these shops. Rather there are multiple civil litigations ongoing in regard to the shops.

22. Furthermore, Petitioner has no Audi car, but it belongs to his younger brother, Ankit Rajpal who lives in Dubai as is evident from the RC of the car. The Petitioner claimed that he has no income from the businesses as alleged by the Respondent and the Order granting interim maintenance of Rs.15,000/- per month is liable to be recalled.

23. **Submissions heard and record perused.**

24. The Petitioner has multiple shops and businesses, though according to him they all are in joint possession and there are multiple litigations pending against them. According to the Respondent herself, her parents had spent more than Rs.1 crore in the wedding.

25. It has been rightly observed by the learned Sessions Judge that it was evident that both the parties are not coming forward with their exact income, but it was clear that both the families are apparently having an affluent background and a good standard of living.

26. While the Petitioner has tried to portray that he is a pauper who has no independent source of income except an income of about Rs.10,000-15,000/- per month from working as a Disco Jockey, but looking at the background, and that he maintains an Audi car though in the name of his brother (who is a resident of Dubai), the claim of



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the Petitioner in regard to his income is not tenable.

27. *The learned Sessions Judge had rightly assessed his income, on the conservative side, as Rs.50,000/- per month.*

28. The Respondent may be qualified, but it cannot be overlooked that she has done her MBA through a Distance Education programme. Furthermore, there is no document or assertion to show that Respondent had ever been in employment. Merely because she has acquired qualifications, cannot be a sole factor to observe that she is educated and capable to earn and therefore, not entitled to maintenance.

29. The situation would have been different had she been employed earlier but left her job after the disputes arose between the parties. There is nothing to show that she is employed or is having any income from her vocation.

30. Furthermore, she may be having an amount of about Rs.5 lakhs in her FDR or about Rs.1 lakh in her bank account, but definitely this is not sufficient for her to maintain her day-to-day expenses. Even if it is accepted that there are no details of claimed monthly expenditure, but definitely Rs.15,000/- per month which has been granted for her day-to-day expenses, cannot be considered as excessive.

31. There is no infirmity in the Order of learned Sessions Judge and the present Petition along with Application(s) is hereby, dismissed.

(NEENA BANSAL KRISHNA)
JUDGE



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APRIL 15, 2025/rk