$~17 & 18

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

\+ **CRL.M.C. 2492/2022**

MAHVISH KHAN .....Petitioner

Through: Mr. Osama Suhail, Ms. Aishwarya Raj and Ms. Antara Chaudhury, Advocates with Petitioner (through VC).

versus

SHAHNAWAZ KHAN TARIN .....Respondent

Through: Md. Qamar Ali, Mr. Sudarshan Rajan and Ms. Priyanka Hitain Bajaj, Advocates.

\+ **CRL.REV.P. 211/2022 & CRL.M.As. 6706/2022, 7882/2022, 25024/2022**

SHAHNAWAZ KHAN TARIN .....Petitioner

Through: Md. Qamar Ali, Mr. Sudarshan Rajan and Ms. Priyanka Hitain Bajaj, Advocates.

versus

MAHAVISH KHAN .....Respondent

Through: Mr. Osama Suhail, Ms. Aishwarya Raj and Ms. Antara Chaudhury, Advocates with Respondent (through VC).

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **12.12.2025**

1. These connected petitions stem from a common interim order dated 17th March, 2020 passed on an application under Section 23 of the

Protection of Women from Domestic Violence Act, 2005[1] in Complaint Case No. 15306/2019. By that interim order, Shahnawaz Khan Tarin, the husband, was directed, pending trial, to pay interim maintenance of INR 2,00,000/- per month and INR 1,00,000/- per month towards rent in lieu of alternative accommodation to Mahvish Khan, the aggrieved-wife. He is also directed to provide a car in a good working. Both parties challenged the interim arrangement in separate appeals under Section 29 of the DV Act.

2. By separate judgments (both dated 26th February, 2022) in Criminal Appeal No. 108/2020 (Mahvish's appeal seeking enhancement) and Criminal Appeal No. 109/2020 (Shahnawaz's appeal seeking reduction), the Appellate Court declined interference with the Trial Court's order. Mahvish has invoked inherent jurisdiction to seek enhancement, while Shahnawaz seeks reduction through revisional challenge. Since the underlying facts, the impugned orders, and the field of controversy substantially overlap, the petitions are being disposed of by a common order.

3. The parties married on 18th September, 1993, according to Islamic Shariat. They have four children. The relationship is not disputed and indeed the marriage continued for decades. The parties have been living separately since 9th December, 2018.

4. The proceedings under Section 12 of the DV Act remain pending final adjudication. Since the impugned order is only of interim measure, the present adjudication is confined to the interim monetary and residential arrangements under Section 23 DV Act and the refusal of the Appellate Court to recalibrate that arrangement at the interim stage.

5. Shahnawaz assails the interim arrangement on the footing that the

[1] "DV Act"

complaint itself is vitiated. He submits that the foundation for monetary relief under the DV Act is the existence of a *prima facie* case of "*domestic violence*", and that the material relied upon by Mahvish does not meet even that minimum threshold. According to him, the allegations of abuse and assault are an afterthought, set up once the matrimonial relationship deteriorated. He asserts that the contemporaneous record does not support the narrative of violence. He places particular emphasis on the CCTV footage relied upon by Mahvish and contends that, if viewed in its correct perspective, it does not depict him as the aggressor. On the contrary, it is urged that the footage shows their son striking him and that Mahvish is seen joining in, which, according to him, exposes the falsity of her allegations and demonstrates that the proceedings are being used as leverage in a family dispute. He also relies on the fact that certain police complaints made by Mahvish were closed, to submit that there was no actionable material even at that stage. In addition, he relies upon photographs and other pieces of evidence to contend that the parties shared a long and normal matrimonial life, together travelled within India and abroad, which is inconsistent with the portrayal of a sustained pattern of domestic violence. He further submits that Mahvish left the matrimonial home without just cause, and that, in the absence of a legally sustainable basis for living separately, she is not entitled to claim maintenance and residence-related reliefs in the manner sought.

6. Shahnawaz also challenges the quantum as being wholly disproportionate to his actual means and liabilities. He submits that the courts below have proceeded on an inflated, *prima facie* assessment of his monthly income at INR 25 lakhs, despite his income tax returns disclosing an annual income of about INR 44 lakhs. He argues that statutory returns,

being made to a public authority in the ordinary course and carrying presumptive sanctity, ought to have been treated as the most reliable indicator at the interim stage unless there was clear material demonstrating concealment. He further argues that the inference drawn from expenditure to education is flawed. According to him, the fact that he has spent substantial amounts on the education of children, including overseas education, cannot automatically translate into an assumed monthly income figure. Such payments may be sourced from savings, loans, family resources, or prior accruals. He contends that he cannot be penalised for meeting parental responsibilities, and that expenditure on children should have been treated as a relevant liability which reduces his present paying capacity, rather than as a proxy for determining higher income. He also places reliance on his continuing responsibilities towards children who, reside with him, and urges that the impugned interim arrangement does not adequately account for these obligations. On this basis, he submits that the grant of INR 2 lakhs per month towards maintenance, coupled with INR 1 lakh per month towards alternate accommodation, is excessive, oppressive, and warrants reduction.

7. Mahvish, on the other hand, seeks enhancement. She submits that the interim arrangement fails to secure even a broadly comparable standard of living to what she enjoyed during the subsistence of the marriage. She emphasises that the marriage spans decades and that she devoted herself to the household and children, without a meaningful independent income stream of her own. According to her, separation has left her financially vulnerable, and the interim relief must address immediate realities, including day-to-day sustenance, medical and household needs, and secure housing commensurate with the social and economic position in which she lived

during the marriage. She submits that the figure of INR 3 lakhs per month, viewed against the admitted lifestyle indicators on record, is not reflective of the true means of Shahnawaz. She points to the nature of the family's lifestyle, their manner of living, travel and other visible indices, and argues that these are legitimate markers at the interim stage for drawing a reasonable estimate of financial capacity, particularly where Shahnawaz's disclosed figures do not, *prima facie*, sit comfortably with the expenditure profile.

8. Mahvish further disputes Shahnawaz's attempt to confine the enquiry to the Income Tax Returns. She contends that the monetary relief granted must be adequate, fair, reasonable and consistent with the standard of living to which she was accustomed. Accordingly, she submits that the computation of monetary relief cannot be restricted to his taxable income alone, but must extend to other relevant factors, including access to assets, business interests, rental income streams, and other financial resources that may not be reflected in the simplistic manner suggested by the husband. She also alleges that Shahnawaz has income streams from multiple sources and business interests, including commercial properties and establishments, and she places reliance on material pointing to recurring receipts towards rental income, apart from other asserted sources. On this premise, she submits that both courts below, while recording that Shahnawaz is a person of means and while rejecting the declared income as understated, still erred in pegging the interim figure at INR 2 lakhs towards interim maintenance and INR 1 lakh towards alternate accommodation. She also raises a grievance that an unemployed son residing with her has not been granted any interim support. In her submission, once her husband's interim earning capacity is assessed,

the apportionment must meaningfully account for the aggrieved person's needs and the lifestyle previously enjoyed, rather than reduce the exercise to a narrow, return-based computation.

9. The scrutiny for examining such challenges at this stage is settled. Interim monetary relief under the DV Act is not a final adjudication on rights, liability, or quantum. It is a protective measure intended to prevent the aggrieved person from being reduced to vulnerability during pendency. At the interim stage, the court proceeds on a *prima facie* appraisal and makes a workable arrangement. A higher court does not routinely substitute its own view on quantum merely because another figure may also have been possible. Interference is warranted where the order is shown to be vitiated by perversity, based on no material, or demonstrably ignores relevant considerations.

10. A second discipline arises from the statutory framework of the statute. The DV Act provides a forum which records evidence, an appellate forum which exercises corrective oversight, and thereafter the limited supervisory spectrum available under criminal procedural provided under the Code. This structure is not meant to be converted into a third merits tier for re-evaluating disputed facts and re-setting interim figures, particularly when the interim order is, by its nature, tentative and remains open to modification on better material.

11. Against this backdrop, Shahnawaz's foundational submission that interim maintenance could not have been granted because domestic violence is not proved is misconceived at this stage. Proceedings under Section 23 DV Act are not a substitute for trial. The trial court was required to see whether the material placed, including the pleadings and the Domestic

Incident Report[2], disclosed a *prima facie* basis to secure immediate monetary protection. The impugned interim order proceeds on that footing. The Appellate Court has noticed Shahnawaz's objections and has declined to conduct a fact-finding exercise at the interim stage. That approach is consistent with the nature of the jurisdiction exercised under Section 23.

12. Shahnawaz's attempt to seek a finding that the wife was the aggressor, or that the adult son was solely responsible for any altercation, raises questions of appreciation of evidence. Such questions are best left to the trial court where evidence can be proved, tested in cross-examination. This Court dealing with an interim order does not decide the factual merits of alleged domestic violence by selecting fragments of contested material, particularly when both sides allege fault and the record is yet to be completed.

13. The controversy then narrows to quantum, and more specifically to the *prima facie* assessment of Shahnawaz's income. The reasoning of the Courts below does not disclose any misdirection. Reliance on Income Tax Returns, although relevant, cannot be elevated to a conclusive yardstick at the interim stage. Maintenance adjudication is frequently complicated by asymmetry of information. The spouse controlling businesses, cashflows, and asset structures often serve as the best evidence, particularly at an interim stage. Courts have therefore accepted that Income Tax Returns are relevant indicators, but not conclusive. A return is one indicator. It is rarely the entire picture, especially in disputes where the parties allege, on the one hand, understatement and, on the other, overstatement by inference. If lifestyle, admitted expenditure, travel patterns, and spending on education,

---

[2] "DIR"

residence, vehicles, and other outgoings are starkly inconsistent with disclosed income, a court is entitled to draw reasonable inferences and arrive at an interim figure that prevents unfairness. This approach has been recognised in maintenance jurisprudence, which repeatedly emphasise that monetary relief must be adequate, fair, reasonable, and consistent with the standard of living to which the aggrieved woman was accustomed to in her matrimonial home.

14. In the present case, both courts below have recorded that Shahnawaz's disclosed annual income of about INR 44.09 lakhs did not appear coherent with other material placed on record. The Trial Court, at the interim stage, assessed his monthly income at INR 25 lakhs based on lifestyle and expenditure indicators. The Appellate Court affirmed that assessment as a reasonable *prima facie* conclusion, expressly leaving the final determination of the exact income and other asserted sources to evidence at trial.

15. In ***Rajnesh v. Neha***[3], the Supreme Court stressed the duty of full and candid financial disclosure and recognised that courts, when confronted with incomplete or unpersuasive disclosure, may draw reasonable inferences from the totality of circumstances[4]. That principle has a clear purpose. Interim maintenance cannot be held hostage to a self-serving declaration, because the consequence of treating such declaration as conclusive is to make the interim remedy illusory. The interim stage is designed to prevent destitution and to secure subsistence pending trial, when the disputed questions on income and assets will be tested through evidence.

---

[3] (2021) 2 SCC 324.

[4] See also: ***Bharat Hegde v. Saroj Hegde*** 2007 SCC OnLine Del 622.

16. Similarly, the approach in ***Kusum Sharma v. Mahinder Kumar Sharma***[5] proceeds on the premise that financial capacity must be assessed holistically, including standard of living, assets, recurring expenditure, and the surrounding circumstances. It is precisely for this reason that courts, while giving due weight to statutory returns and formal documents, remain entitled to scrutinise whether the disclosed figure plausibly fits the admitted expenditure profile. This does not denude statutory returns of value. It only rejects the proposition that declared taxable income, standing alone, must dictate interim maintenance irrespective of what the record otherwise reveals.

17. Tested on these principles, the courts below were justified in declining to treat Shahnawaz's declared income as the final word, once the record reflected expenditure patterns which, at least *prima facie*, appeared materially discordant with the declared figure. The material noticed by the Appellate Court includes, amongst other indicators, travel abroad, a certain lifestyle footprint, and substantial educational expenditure for the children. These circumstances were not treated as a ground to punish Shahnawaz for being a supportive parent. They were treated for what they are at the interim stage: objective markers that the disclosed income, on its face, may not reflect the full economic capacity available to Shahnawaz. If an individual is demonstrably able to incur large, recurring and structured expenditure over time, the court is entitled to ask whether the disclosed income figure reasonably explains that capacity.

18. Shahnawaz's submission that such expenditure could be met from savings or borrowings does not, at this stage, render the inference

---

[5] 2020 SCC OnLine Del 931.

impermissible. Savings are, by definition, accumulated income. Borrowings, if genuinely incurred, would ordinarily leave a trace in the form of loan documentation, repayment schedules, and banking trails. These are matters for trial. At the interim stage, the court is not required to accept a speculative alternative explanation as a complete answer, particularly when Shahnawaz's own case rests on asking the court to accept his declared income figure at face value.

19. Keeping these considerations in view, the tentative assessment of monthly income at INR 25 lakhs, and the consequent interim arrangement of INR 2 lakhs as maintenance, with INR 1 lakh towards rent in lieu of residence, cannot be characterised as arbitrary or perverse. The figure is not presented as a final adjudication of income. It is a *prima facie* balancing, intended to preserve a measure of financial stability for the aggrieved person pending evidence, while leaving the parties free to establish the true income position at trial and seek modification on proof. It is for this reason that the impugned orders specifically observed that the assessment is subject to revaluation on evidence.

20. The argument that expenditure on children or dependents must be treated only as a "*liability*" and therefore should reduce Mahvish's entitlement cannot be accepted as an absolute proposition. Liabilities do matter, but the exercise is a balance. A payer spouse cannot adopt discretionary spending as a self-created shield to depress the maintenance owed to the other spouse. The duty to maintain dependents/children in custody is real and relevant. At the same time, the duty to maintain the spouse, particularly after a long marriage where the spouse claims financial dependence, does not vanish. Interim maintenance under the DV Act is

meant to ensure that the aggrieved person does not suffer economic abuse through denial of basic support and dignified residence.

21. It is also necessary to note the interim amount in proportion. The interim arrangement of INR 3,00,000/- per month in favour of Mahvish, includes rent in lieu of alternative accommodation. On the *prima facie* income assessed by the courts below, the outgo is not of such magnitude as to be characterised as punitive or unreasonable. It is designed to secure residence and sustenance pending trial, and it also reflects that the husband bears other responsibilities, including towards the children with him. On Shahnawaz's own case, he claims a relatively high standard of living and high educational spending. It would be incongruous to treat that standard as irrelevant when considering whether Mahvish is entitled to a dignified interim arrangement consistent with the marital station.

22. Turning to Mahvish's plea for enhancement, the request runs into a similar constraint of principle and record. Interim maintenance is not a forum for final quantification on contested material. The court's task at this stage is to devise a workable arrangement based on *prima facie* indicators, without converting the proceedings into a detailed forensic audit of businesses, entities, rentals, and inter-linked interests which will necessarily require documentary proof, cross-examination, and a fuller evidentiary foundation.

23. Mahvish emphasises that Shahnawaz has additional income streams and business interests beyond what is reflected in the disclosed returns. Those assertions may well be correct. Equally, they may be overstated. At this stage, the court cannot assume the correctness of disputed allegations merely because they are pleaded. Enhancement would be justified only if

Mahvish could point to material of a decisive character already on record, which plainly demonstrates higher income even on a *prima facie* standard, and which the courts below ignored or misread. That is the distinction between 'arguable' and 'established enough to recalibrate interim relief'.

24. The courts below have not rejected Mahvish's case as implausible. They have treated it as a matter requiring proof. That approach is consistent with the structure of the DV Act. Orders under Section 23 are summary, designed to secure immediate relief. They remain amenable to variation as the factual record develops. If, during trial, she is able to demonstrate by cogent material that Shahnawaz's income, assets, or control over business receipts is materially higher than what is presently assessed, the statutory scheme itself provides the corrective.

25. In other words, the present refusal to enhance is not a denial of the claim on merits. It is a recognition that the threshold for enhancement at the interim stage is not met on the existing material. Mahvish's remedy lies in proof and in the court's continuing power to adjust the figure when the financial picture emerges with clarity.

26. A further reason to avoid re-setting the interim arrangement is that interim maintenance orders are inherently elastic. They are capable of modification upon change in circumstances or upon better disclosure. If, during trial, it emerges that the husband's income is materially lower than the *prima facie* assessment, or materially higher, the trial court will be competent to recalibrate the interim arrangement in accordance with law. That flexibility reduces the need for intrusive appellate tinkering at a stage where the evidentiary record is incomplete.

27. Before parting, it must be emphasised that these petitions require a

realistic appreciation of the marriage trajectory. The parties were married for decades and raised four children, of which three are adults and now well settled. Even on a neutral view, the wife's contribution to the home and family over that span cannot be treated as inconsequential. Interim maintenance in such circumstances is not a matter of charity. It is a protective legal response to separation, intended to prevent economic vulnerability while the court determines the rights and liabilities on evidence.

28. In sum, the impugned interim order reflects a reasoned balancing of needs and capacity at the interim stage. The Appellate Court has applied the correct standard in refusing interference, and has left the contested questions, including the exact income profile and the merits of the domestic violence allegations, to be decided at trial. No perversity, jurisdictional error, or manifest illegality is shown warranting interference either for enhancement or for reduction.

29. Accordingly, both petitions are dismissed. It is clarified that observations in this order are confined to interim relief and shall not influence the final adjudication of the complaint. The parties remain at liberty to seek modification of interim maintenance before the trial court on a proper evidentiary foundation, in accordance with law.

30. The Trial Court is requested to proceed with the matter expeditiously. Both parties shall cooperate and avoid unnecessary adjournments so that the *lis* is resolved on evidence without delay.

31. At the joint request of the parties, parties are also referred to Delhi High Court Mediation and Conciliation Centre, where they shall appear on 7th January, 2026.

32. As requested by counsel for the parties, Mr. Sunil Mittal, Advocate, is appointed as the mediator in the proceedings before the Delhi High Court Mediation and Conciliation Centre.

33. With the above directions, these petitions are disposed of along with any other pending application(s).

SANJEEV NARULA, J

DECEMBER 12, 2025
as