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

+ **CRL.REV.P. 723/2023**

DEEPAK GARG

.....Petitioner

Through: Ms. Vishalakshi Goel,
Adv.

Versus

POONAM GARG

.....Respondent

Through: Mr. Raj Kumar, Adv.
through V.C.
Insp. Satbir Singh, PS
Jaitpur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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12.11.2025

CRL.M.A. 33423/2025 (for early hearing on behalf of petitioner)

1. With the consent of the parties, the date of 01.12.2025 already fixed is cancelled and the matter is preponed to today for arguments.

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2. The present revision petition is filed on behalf of the Petitioner/husband, under Section 397 the Code of Criminal Procedure, 1973 ('CrPC'), assailing the impugned order dated 15.05.2023, passed by the learned Principal Judge Family Court ('PJFC'), Central Districts, Tis Hazari Courts, Delhi, in MT No. 140/2017, whereby his application under Section 127 Cr.P.C. seeking modification of the interim maintenance of ₹15,000/- per month, as directed *vide* order dated 07.03.2018, was dismissed.

3. The learned PJFC, by the impugned Order dated 15.05.2023, after considering the material placed on record, found no substantive proof of such a change in circumstance, as

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alleged by the petitioner, warranting interference in the awarded amount of interim maintenance.

4. The main grievance of the petitioner is that the learned Family Court has failed to consider that his financial position has deteriorated following the collapse of his business during the COVID-19 pandemic and due to certain government policies, thereby rendering him incapable of paying the maintenance amount. He relies on his Income Tax Returns from 2019 to 2023 to demonstrate a substantial fall in his income. It is also argued that the respondent/wife is a well-educated woman with a B. Com degree and is currently giving home tuitions and earning handsomely.

5. Thus, it is prayed that there has been a change in circumstance, since the passing of the order of interim maintenance dated 07.03.2018, which has not been considered by the learned Family Court and hence, the impugned order dated 15.05.2023 is liable to be set-aside.

6. Submissions heard and the material placed on record has been perused.

7. The impugned order dated 15.05.2023, is in regard to rejection of Application filed by the Petitioner under section 127 Cr.PC., seeking modification of the amount of interim maintenance on account of change of circumstances.

8. The scope of interference under Section 127 Cr.P.C. is well circumscribed. The provision permits alteration of maintenance only upon proof of a substantial and material change in the circumstances of either party after the passing of the initial order. The burden to establish such change lies



squarely upon the party seeking modification.

9. In the present case, the petitioner has asserted that his business suffered losses owing to the COVID-19 pandemic, the nationwide lockdown, and subsequent government restrictions, rendering him unable to pay the maintenance amount. However, he has not placed on record any material, document, or policy notification to substantiate these assertions or to demonstrate his alleged financial incapacity.

10. To further establish a change in circumstances, the petitioner has relied only upon his Income Tax Returns to demonstrate a substantial fall in income. However, no contemporaneous or independent evidence, such as audited financial statements, bank records, or proof of business closure, has been furnished to substantiate the contentions. Moreover, it is a settled position that ITRs, being self-declared documents, do not conclusively establish true income, particularly in matrimonial disputes where there is a tendency to understate earnings (Ref. ***Kiran Tomar v. State of U.P.*: 2022 SCC OnLine SC 1539**).

11. A mere assertion of financial difficulty, unsupported by credible evidence, cannot constitute a “*change in circumstances*” within the meaning of the provision of section 127 Cr.PC. At this stage, even the possibility of the petitioner undermining his income to avoid paying maintenance of an appropriate amount to the respondent cannot be ruled out.

12. Furthermore, the petitioner’s assertion that the respondent/wife is gainfully employed remains wholly unsubstantiated, whereas the respondent has consistently



maintained that she is unemployed and unable to sustain herself. The learned Family Court has rightly observed that such contested factual issues can be conclusively determined only upon leading of evidence.

13. In this background, it is evident that the petitioner has failed to discharge the legal burden of proving a material and *bona fide* change in circumstances, which is a *sine qua non* for invoking Section 127 Cr.P.C. Hence, this Court finds no perversity or illegality in the reasoning of the learned Family Court in holding that no case for alteration under Section 127 Cr.P.C. was made out.

14. However, it is noted that the purpose of maintenance proceedings is to provide support and sustenance, not to impose punitive burdens. In the peculiar facts and circumstances of the case at hand, keeping in mind the financial circumstances pleaded by the petitioner, this Court deems it appropriate to modify the order dated 07.03.2018 to the extent of setting aside the penalty/costs of “Rs.500/- per day” in the event of non-deposition of the maintenance.

15. It is made clear that the petitioner shall ensure timely compliance with the maintenance order and clear any arrears within a reasonable period as directed by the learned Family Court.

16. The present petition is disposed of in the aforesaid terms, along with pending application(s), if any.

AMIT MAHAJAN, J

NOVEMBER 12, 2025

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