



2025:DHC:11341



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

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*Judgment reserved on: 10.12.2025**Judgment pronounced on: 15.12.2025**Judgment uploaded on: 19.12.2025*+ **CRL.REV.P. 617/2024****SHRI SUMIT SHARMA**

.....Petitioner

Through: Petitioner with his counsel Mr.
Vaibhav Shukla, Advocate

versus

SMT. NAVITA

.....Respondent

Through: Respondent with her counsel
Mr. Jairaj Singh and Mr.
Deepankar, Advocates**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****Index to the Judgment**

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DR. SWARANA KANTA SHARMA, J

1. By way of the present petition, the petitioner-husband seeks setting aside of the order dated 13.02.2024 [hereafter '*impugned*'



order’] passed by the learned Family Court, East District, Karkardooma Courts, Delhi [hereafter ‘*Family Court*’], in Maintenance Petition No. 589/2022 titled “*Smt. Navita v. Sh. Sumit Sharma*”, vide which the petitioner has been directed to comply with the order dated 01.05.2023 and pay ad-interim maintenance of Rs. 12,000/- per month to the respondent-wife, notwithstanding the charges being paid by him towards the house rent.

FACTUAL BACKGROUND

2. Briefly stated, the facts of the present case are that the marriage between the petitioner-husband and the respondent-wife was solemnized at Delhi according to Hindu rites and ceremonies. Two children were born out of their wedlock, one in the year 2010 and another in 2018. It is alleged that soon after the marriage, the petitioner-husband and his family members had started harassing and subjecting the respondent-wife to cruelty for bringing insufficient dowry. The mother-in-law of the respondent had allegedly taken all the jewellery articles, including those given by the respondent’s parents and those received from the in-laws as *stridhan*. The respondent’s mother had allegedly been compelled on several occasions to pay cash to the petitioner, and upon her inability to do so, the respondent had been beaten and mentally harassed at the instigation of her mother-in-law. It is further alleged that on 14.11.2018, the respondent had come to know about the petitioner’s illicit relationship. Consequently, the relations between the parties



had deteriorated. They have been living separately since 07.04.2022. The respondent-wife has been living in the police quarter, allotted to the petitioner-husband. The petitioner alleges that the respondent, along with her relatives, had extended threats and compelled him to leave the shared accommodation along with the minor children, whereafter he had shifted with his mother and children to his parental home at Village Sabhapur, Delhi.

3. The respondent-wife had instituted proceedings under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] in September, 2022. On 01.05.2023, the learned Family Court had directed the petitioner to pay a sum of ₹12,000/- per month as ad-interim maintenance to the respondent-wife and had adjourned the matter for filing of reply, income affidavit, etc.

4. On 13.02.2024, the learned counsel appearing for the respondent-wife had prayed before the learned Family Court that the defence of petitioner-husband be struck off as he was not paying the ad-interim maintenance. To this, the learned counsel for the petitioner submitted that petitioner was paying the ad-interim maintenance of Rs.12,000/- by transferring Rs. 2058/- via online mode to her and Rs.9,942/- were being deducted from his salary towards the amount of HRA of the house in which the respondent is residing. The petitioner's contention was rejected by the learned Family Court and it was observed as under:

“Ld counsel for the petitioner prayed for striking off the defence of the respondent on the ground that the order dated



01.05.2023 regarding the payment of ad-interim maintenance is not being complied with by the respondent. Whereas the respondent has alleged that he is not bound to make any further payment to the petitioner as he is already complying the order dated 01.05.2023.

So far as the argument raised by Ld counsel for the respondent regarding the compliance of order dated 01.05.2023 qua the payment of ad-interim maintenance is concerned, I am of the opinion that the notional amount of HRA which is not reflected in the salary slip of the respondent cannot be the deemed receipt of payment of maintenance amount by the petitioner in compliance of order dated 01.05.2023 and the respondent is required to pay the monthly ad-interim maintenance amount of Rs. 12,000/- to the petitioner for her maintenance. It is further pertinent to mention that the government accommodation was given to the respondent upon his application only and he has not surrendered the aforesaid accommodation. Merely because the wife of the respondent is residing in the aforesaid accommodation cannot be the ground to avoid the compliance of order of payment of ad-interim maintenance in terms of order dated 01.05.2023.

In view of the abovesaid facts and circumstances, respondent is again directed to make the payment of Rs. 12,000/- per month as ad-interim maintenance to the petitioner in terms of order dated 01.05.2023...”

5. Aggrieved by the aforesaid order, the petitioner-husband had filed the present revision petition.

SUBMISSIONS BEFORE THE COURT

6. The learned counsel appearing for the petitioner-husband argues that the impugned order directing payment of ₹12,000/- per month, in addition to the amount towards HRA being borne by him, as ad-interim maintenance to the respondent-wife is erroneous and has been passed without proper appreciation of facts. It is submitted that the respondent-wife, along with her family members, had



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repeatedly threatened and compelled the petitioner to vacate the Government accommodation, where he had been residing with her and their two minor children, and that he was forced to shift to his parental home at Village Sabhapur, Delhi, along with his aged mother and the children, while the respondent continues to occupy the said Government quarter. The petitioner, his aged mother, and the children have not derived any benefit from the Government accommodation and, for the same, the petitioner has been deprived of his HRA amounting to ₹9,828/- per month. Thus, in compliance with the order dated 01.05.2023, the petitioner, after accounting for the said HRA as well as fixed water charges of ₹719/- per month, has continuously paid the remaining amount to the respondent. The gross salary of the petitioner at the time of passing of the impugned order was approximately ₹51,946/- per month (excluding HRA), subject to statutory deductions such as TDS, provident fund, etc. It is further contended that the learned Family Court, *vide* the impugned order dated 13.02.2024, has erroneously observed that the petitioner has not surrendered the Government accommodation, despite the petitioner having already moved an application for surrender thereof. It is submitted that the Estate Officer had declined to take vacant possession on the ground that the same could be accepted only if the petitioner evicted the respondent-wife from the premises. It is urged that if the impugned order is allowed to stand, the respondent-wife, under the guise of ad-interim maintenance of ₹12,000/-, would receive an aggregate monetary benefit of ₹24,007/- per month. It is



submitted that petitioner is willing to pay the full ad-interim maintenance of ₹12,000/- per month, provided the respondent vacates the Government accommodation.

7. The learned counsel appearing on behalf of the respondent-wife, on the other hand, argues that the present revision petition is wholly misconceived and not maintainable, as the petitioner-husband has failed to challenge the original order dated 01.05.2023 passed by the learned Family Court directing payment of ₹12,000/- per month as *ad-interim* maintenance to the respondent-wife, which has since attained finality. It is submitted that the subsequent order dated 13.02.2024, merely directing continuation of the said payment, was passed under Section 7(2) of the Family Courts Act, and no criminal revision lies against such an order. It is contended that the petitioner, a Head Constable in Delhi Police, has refused and neglected to maintain his legally wedded wife, having deserted her and taken away their two minor children to his parental home in Village Sabhapur, Delhi. The respondent-wife, who has been left alone and without any independent means of sustenance, is entitled to maintenance to meet her basic needs. It is further argued that the petitioner's plea that deductions towards HRA and water charges should be adjusted against maintenance is untenable, as per the settled law. It is, therefore, argued that the present petition is devoid of merit and liable to be dismissed.

8. This Court has **heard** arguments addressed by the learned counsel appearing for the petitioner as well as the learned counsel



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appearing for the respondent, and has perused the material available on record.

ANALYSIS & FINDINGS

9. The issue before this Court is – whether the learned Family Court committed an error by holding that the petitioner-husband had failed to comply with the ad-interim maintenance order dated 01.05.2023 and in directing him, *vide* the impugned order dated 13.02.2024, to pay a sum of ₹12,000/- per month as ad-interim maintenance to the respondent-wife, notwithstanding the deductions towards HRA and water charges in respect of the Government accommodation occupied by the respondent-wife.

Maintainability of Petition

10. Insofar as the contention of the learned counsel for the respondent – that the present revision petition is not maintainable against the impugned order passed by the learned Family Court, being an order under Section 7(2) of the Family Courts Act, 1984 – is concerned, the same is unmerited, as the said objection stands negated in view of Section 19(4) of the Family Courts Act, as also the decision of the Division Bench of this Court in ***Manish Aggarwal v. Seema Aggarwal***: 2012 SCC OnLine Del 4816, wherein it was held as under:

“26. We, thus, conclude as under:

- i. In respect of orders passed under Sections 24 to 27 of the HM Act appeals would lie under Section 19(1) of the said Act to the Division Bench of this Court in view of the



provisions of sub-section (6) of Section 19 of the said Act, such orders being in the nature of intermediate orders. It must be noted that sub-section (6) of Section 19 of the said Act is applicable only in respect of sub-section (1) and not sub-section (4) of Section 19 of the said Act.

ii. No appeal would lie under Section 19(1) of the said Act qua proceedings under Chapter 9 of the Cr. P.C. (Sections 125 to 128) in view of the mandate of sub-section (2) of Section 19 of the said Act.

iii. **The remedy of criminal revision would be available qua both the interim and final order under Sections 125 to 128 of the Cr. P.C. under sub-section (4) of Section 19 of the said Act.**

iv. As a measure of abundant caution we clarify that all orders as may be passed by the Family Court in exercise of its jurisdiction under Section 7 of the said Act, which have a character of an intermediate order, and are not merely interlocutory orders, would be amenable to the appellate jurisdiction under sub-section (1) of Section 19 of the said Act.”

(emphasis added)

Examining the Impugned Order

11. Coming to the merits of the case, this Court notes that the petitioner-husband is presently serving as a Head Constable in the Delhi Police. The salary slips for the period July to December, 2023, placed on record, reveal that the petitioner was earning a net monthly salary of approximately ₹54,000/-, after statutory deductions, while his gross salary was around ₹60,000/- per month.

12. The documents placed on record, particularly Certificate No. 1675/Acct.(Pay)/Shahdara Distt., Delhi dated 26.03.2024 issued by ACP/DDO, Shahdara, Delhi, further reveal that a sum of ₹9,828/- towards House Rent Allowance (HRA) was not being paid to the



petitioner and that ₹719/- towards water charges for the Government accommodation (presently occupied by the respondent-wife) was being deducted from his gross salary.

13. It is evident that the learned Family Court, while directing payment of ₹12,000/- per month as ad-interim maintenance, has failed to take into account the undisputed position that the respondent-wife continues to occupy the Government accommodation allotted to the petitioner. The financial impact of such occupation and the corresponding deductions from the petitioner's salary ought to have been factored into the overall assessment of maintenance. The impugned order is silent as to whether the amount of ₹12,000/- was intended to cover only day-to-day living expenses or also included contribution towards residence.

14. In effect, the petitioner has been directed not only to pay ₹12,000/- per month as ad-interim maintenance but is also incurring an additional financial burden of approximately ₹10,500/- per month on account of HRA and water charges relating to the Government accommodation occupied by the respondent-wife. The cumulative financial outgo towards the respondent-wife, therefore, works out to about ₹22,500/- per month.

Inappropriate to assess caregiving challenges of a single parent through a gendered lens

15. It is also necessary to acknowledge that the petitioner-husband and the respondent-wife, after separation, have faced distinct yet



significant challenges. While the respondent-wife's position as an estranged spouse without independent income warrants protection and grant of maintenance to prevent destitution, the petitioner-husband, as a single working parent in custody of two minor children, bears emotional, psychological, and financial burdens equivalent to those faced by a single mother.

16. This Court observes that while adjudicating disputes before a Family Court, it is neither appropriate nor permissible to assess the caregiving capacities of a parent through a gendered lens. Just as this Court readily accepts that a single mother caring for her child is providing, to the fullest extent possible, the love, care, and emotional security of both parents, the same principle must apply where a **single father** is entrusted with the care and upbringing of minor children. The role of a caregiver, whether assumed by the mother or the father, entails equal emotional, psychological, and material commitments, and the effort involved cannot be discounted merely because the caregiver is the father.

17. That said, this Court is also conscious that the social realities faced by a single mother and a single father are not identical. In many cases, especially in Indian society, a single mother may find it difficult to return to or be comfortably accommodated in her parental home, whereas a father, continuing in his parental household, may face relatively fewer societal barriers. However, such distinctions do not permit a mechanical comparison or an assumption of lesser hardship on the part of such a single father.



18. Disputes before Family Courts are deeply fact-specific; seldom are two cases involving estranged spouses identical. Human relationships, their breakdown, and the consequences flowing therefrom vary with circumstances, personalities, and social contexts. Therefore, while acknowledging differing social challenges, this Court must evaluate each case on its own facts, without undermining the genuine efforts of either parent who assumes the responsibility of single-handedly caring for minor children.

19. It is also to be noted that in India, a single father is not entitled to child care leave. A mother is entitled to child care leave whether single or not. This may pose significant challenges for a single working father who has to care for the psychological and emotional needs of the minor children in his custody and also ensure running of a household with minor children while ensuring that his career possibilities and progress does not suffer as in the case of a single mother.

Conclusion & Decision

20. In these circumstances, this Court finds merit in the contention that if the petitioner is required to pay ₹12,000/- as ad-interim maintenance, in addition to bearing deductions of approximately ₹10,500/- per month on account of Government accommodation occupied by the respondent-wife, the total effective outgo would be around ₹22,500/- per month, against a net monthly income of about ₹54,000/-. Such an arrangement would be inconsistent with the



principles laid down in *Annurita Vohra v. Sandeep Vohra: 2004 SCC OnLine Del 192*, wherein it was held that family income should be apportioned equitably, ordinarily by allocating two shares to the earning spouse and one share each to the dependents. In the present case, the dependents of the petitioner include two minor children and his aged mother (who though is receiving some amount of pension), and therefore, the respondent-wife would be entitled to a proportionate share which cannot, at this stage, be equated to an effective amount of ₹22,500/- per month.

21. It is also relevant to note that in the event the Government accommodation is vacated, the petitioner's net salary would increase to about ₹64,000/- per month, and the issue of maintenance would then require reassessment in light of the enhanced income.

22. During the course of arguments, the learned counsel appearing for the petitioner submitted that the petitioner is willing to provide the respondent-wife with alternative accommodation within a distance of about 200 meters from her present place of residence, in the event she vacates the official accommodation. This Court is of the considered opinion that so long as the respondent-wife continues to occupy the Government accommodation allotted to the petitioner, the financial deductions towards the same will have to be taken into consideration while arriving at the quantum of maintenance.

23. In view of the foregoing discussion, this Court finds that the learned Family Court erred in not accounting for the deductions



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towards HRA and water charges and in failing to clarify the components and scope of the ad-interim maintenance awarded. Accordingly, the impugned order is set aside and the matter is remanded to the learned Family Court for fresh consideration, after affording both parties an opportunity to place updated income affidavits and supporting material on record.

24. The parties are directed to appear before the learned Family Court on 15.01.2026. The learned Family Court shall thereafter determine the quantum of ad-interim maintenance afresh, in accordance with law and in light of the observations made herein.

25. With these directions, the present revision petition stands disposed of.

26. The Registry is directed to send a copy of the judgment to the learned Family Court forthwith for necessary action and compliance.

27. It is however clarified that nothing expressed herein shall tantamount to an expression on the merits of the case.

28. The judgment be uploaded on the website forthwith.

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