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

+ **CRL.REV.P.(MAT.) 204/2025, CRL.M.A. 13711/2025**

RAHUL GUPTA

.....Petitioner

Through: Mr. Ranjan Kumar, Advocate.

versus

MEGHA MAHAJAN & ANR.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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05.05.2025

CRL.M.A. 13712/2025 (delay in 350 days in filing the petition)

1. For the grounds and reasons stated therein, the application is allowed and the delay in filing the petition is condoned.
2. Disposed of.

CRL.REV.P.(MAT.) 204/2025

3. The present revision petition under Section 438 read with Section 442 of Bharatiya Nagarik Suraksha Sanhita, 2023¹ is directed against the order dated 8th May 2024², passed by Family Courts-01, Shahdara, Karkardooma, Delhi, in MT No. 375/2021 titled as ***“Megha Mahajan vs. Rahul Gupta”***. The impugned order arises from an application for interim maintenance preferred by the Respondents in the aforementioned proceedings.
4. Briefly stated, the facts of the case, are as follows:

¹ “BNSS”

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4.1. The Petitioner and Respondent No. 1 solemnized their marriage on 29th June, 2018. From this marriage, a son was born, who currently resides with Respondent No. 1.

4.2. The marriage between the parties was a short lived and barely after 3 years of marriage, they separated. Since then, Respondent No. 1 has been living separately, at her parental home along with her minor son – Respondent No. 2. Under these circumstances, the Respondent No. 1 filed applications, both under the provisions of Protection of Women from Domestic Violence Act, 2005³, as well as under Section 125 of Code of Criminal Procedure, 1973⁴, seeking maintenance for herself and her minor son (Respondent No. 2).

4.3. Under DV Act, an interim maintenance of INR 10,000/- was awarded in favour of the Respondents. However, Respondent No. 1, contended that awarded sum was insufficient to adequately provide for the upbringing of Respondent No. 2, prompting her to file a separate petition under Section 125 Cr.P.C. seeking additional maintenance specifically for Respondent No. 2. This petition was also accompanied by an application for interim relief under Section 125(2) of Cr.P.C.

4.4. The said interim application was decided *vide* the impugned order dated 8th May, 2024, directing the Petitioner to pay interim maintenance of INR 25,000/- from the date of filing of the application. It was also clarified that the interim maintenance so awarded would be subject to adjustment against the maintenance awarded in any other parallel maintenance proceedings.

² “Impugned order”

³ “DV Act”

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4.5. Petitioner sought a clarification from the Family Court, highlighting that both parents bear equal responsibility toward maintaining their minor child. He prayed that he be permitted to discharge half the amount fixed, arguing shared parental obligation. However, this clarification application was rejected by the Family Court on 27th November, 2024.

5. Dissatisfied with the quantum of maintenance fixed by way of the impugned order, in relation to Respondent No. 2, the Petitioner has approached this Court by way of the present revision petition, praying for setting aside the aforesaid order.

6. Counsel for the Petitioner advances the following grounds in support of his plea for quashing the impugned order:

6.1. The impugned order is manifestly arbitrary and suffers from material errors, necessitating interference. The Family Court failed to adequately consider the Petitioner's limited monthly income, which was only INR 10,000/- at the time the impugned order was passed and subsequently increased only marginally to INR 20,000/- per month.

6.2. The Petitioner duly submitted his income affidavit before the Family Court, transparently declaring his employment as a salesperson earning INR 10,000/- monthly. Given these clear disclosures of modest earnings, the interim maintenance sum of INR 25,000/- awarded exclusively for the minor child is patently disproportionate, unreasonable, and unsustainable in law.

6.3. The Family Court gravely erred by attributing the income and assets of the Petitioner's family business to the Petitioner himself. It improperly considered familial financial status and business operations, thereby inflating the Petitioner's assumed financial capacity without any legal or

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factual basis, leading to an unjust and excessive maintenance award.

6.4. Respondent No. 1 voluntarily left the matrimonial home and deserted the Petitioner. Despite the Petitioner's sincere and repeated efforts toward reconciliation, she has persistently refused to resume cohabitation. Thus, it is Respondent No. 1 who has consciously withdrawn herself from the marital relationship.

6.5 Moreover, Respondent No. 1 is highly educated and employed with Aristocrats Technologies Pvt. Ltd., drawing a substantial monthly salary exceeding INR 2,00,000/-. This income is comfortably adequate for the independent upbringing and maintenance of Respondent No. 2, the minor child, negating any necessity for imposing an additional and disproportionate financial burden upon the Petitioner.

7. The Court has carefully considered the submissions advanced by counsel for the Petitioner but finds them lacking in merit. Before delving into the detailed reasoning, it bears emphasis that the impugned order pertains solely to the award of interim maintenance. At this stage, the Court's jurisdiction is circumscribed; interference is warranted only if the impugned decision is demonstrably arbitrary, patently illegal, or suffers from material irregularity.

8. Respondent No. 1 did not seek maintenance for herself. She explicitly limited her claim to the minor child, Respondent No. 2, now aged approximately five years. The Family Court, while deciding the issue of interim maintenance, has undertaken a thorough evaluation of the facts and materials presented, and returned a *prima facie* finding for awarding the maintenance as follows:

“4. I have heard the arguments and perused the record. Admittedly,

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the petitioner no.1 is not seeking maintenance for herself and has claimed interim maintenance for her son only, who is aged about 5 years and has been admitted to a school recently. School fees receipts of the petitioner no.2 are on record. No doubt, the petitioner no.2 [has been getting maintenance @ Rs. 10,000/- per month in a case under D.V. Act, but the petitioner no.1 is not satisfied with such maintenance and has claimed interim maintenance @ Rs. 1 Lac per month in view of expenses of minor. **Petitioner No.1 has been drawing a salary of Rs. 1,30,000/- per month, whereas the respondent has claimed that he has been earning Rs. 10,000/- per month.** However, it is a matter of common sense that the respondent had just completed his BA, LL.B when he got married with the petitioner no. 1, who had been residing in the area of Surajmal Vihar and was working with a reputed company M/s. Aristocrat Technologies Pvt. Ltd. with monthly salary of Rs. 1 Lakh per month. It is not believable that a lady with such good earning would get married with such a person who had just earning of Rs. 10,000/- per month by his temporary job. In fact, no family members of any girl would allow for such marriage, until and until it is a love marriage with consent of both parties only, which is not the case herein. **Petitioners have filed many documents on record to prove that the respondent has been handling his family business and documents are containing his name and concerned with firm M/s. Rati Ram Gupta Enterprises. He has listed his business online and his name is reflected on those documents.** Ld. Counsel for respondent has argued that business documents produced by the petitioners are forged and fabricated, whereas income of the respondent also may not be determined merely on the basis of acknowledgement certificate of the respondent regarding his earning @ Rs. 10,000/- per month. **Respondent has filed his bank statement for the period w.e.f. 03.07.2019 to 09.07.2022 and strangely during the period w.e.f. 03.07.2019 to 07.12.2021, there was not even a single entry of such salary amount of the respondent @ Rs. 10,000/- to prove that the respondent has been drawing such salary.** However, such entries have started w.c.f. 07.12.2021 onwards, which suggests that the respondent has come out of defense of such earning only after filing of this petition. In fact, the respondent has definitely concealed his earning, otherwise his business is located in a reputed area at Chawri Bazar and the respondent may be seen sitting in his office in photographs.

5. Respondent has been handling his family business and earlier was residing in the areas of Civil Lines but now stated to have shifted to a rented accommodation, which also seems not believable. **In fact, it is a common practice that as soon as family dispute arises between the parties, both parties starts to show themselves to be poor or not earning, whereas in this case, the photographs and lifestyle of the respondent as well as his family background at the time of marriage, would show his sound financial condition and, it may be easily assumed that the respondent must be earning not less than Rs. 1 Lakh per month and has shown himself to be**

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not earning properly. As such, income of the respondent may be presumed on the basis of his family business @ Rs. 1 Lakh per month. The expenses of the petitioner no.2 are containing his educational and other expenses but monthly expenses of a boy, aged about 5 years @ Rs. 1,25,000/- per month is not believable. Even otherwise children are joint liability of both warning parents like in the present case, accordingly monthly expenses of minor are determined @ Rs. 25,000/- per month and the petitioner no.2 shall be entitled for such interim maintenance, from the date of filing of this application and during pendency of this case, payable on 10 of each succeeding calender month.

6. *Ad-interim maintenance already paid or allowed in this petition or in any other regular maintenance in any other petition shall be subject to adjustment. With these observations, application for interim maintenance is disposed of.*

7. *However, observations of this court herein above shall not effect the merit of this case.”*

[Emphasis supplied]

9. The Petitioner’s primary contention is that his stated income is only INR 10,000/- per month, later rising to INR 20,000/-. However, the Family Court correctly highlighted discrepancies in the Petitioner’s own banking records, observing an absence of any consistent salary deposits prior to the filing of the maintenance petition. It was only after the initiation of proceedings that such salary entries conveniently appeared, casting serious doubt on their authenticity and pointing strongly towards an attempt to evade his legitimate financial responsibilities.

10. Further, the scepticism expressed by the Family Court is well-founded, anchored in credible documentary evidence produced by the Respondents. These documents convincingly link the Petitioner to his family’s substantial business – M/s. Rati Ram Gupta Enterprises, in the commercially prominent area of Chawri Bazar. Additionally, photographs placed on record portray a lifestyle and social standing markedly inconsistent with the Petitioner’s claimed modest earnings. In light of

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established judicial precedents, the Family Court was justified in relying on such documentary and visual evidence to form a *prima facie* assessment of the Petitioner's true financial capacity, particularly when confronted with apparent discrepancies between the parties' standard of living and the Petitioner's asserted income⁵.

11. Further, the Family Court correctly observed the inherent improbability of Respondent No. 1, an educated professional drawing a monthly salary exceeding INR 1,30,000/- at the time of marriage, entering into a matrimonial alliance with an individual earning merely INR 10,000/- per month from casual employment, particularly absent any credible evidence suggesting a love marriage, against parental wishes. This practical inference aligns with settled judicial recognition that maintenance proceedings must adopt a realistic view of marital relationships and social dynamics, avoiding improbable assumptions.

12. Moreover, the Petitioner's argument that consideration of his family's assets and business constitutes an error, is equally untenable. Courts have consistently held that in cases involving maintenance claims, particularly interim maintenance for minors, it is entirely permissible, even necessary, to pierce through apparent or self-disclosed income to ascertain the true financial status of the paying parent⁶. Reliance upon overall family financial background, living standards, and access to resources has repeatedly been upheld the courts, given the reluctance of litigants to disclose their actual earnings accurately. Thus, the Family Court's method of estimating the Petitioner's income by taking a broader view of his socio-economic context

⁵ *Bharat Hegde v. Saroj Hegde*, 2007 SCC OnLine Del 622.

⁶ See *Kiran Tomar v. State of U.P.*, 2022 SCC OnLine SC 1539

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does not suffer from any legal infirmity.

13. Turning to the contention that Respondent No. 1 earns sufficiently to independently support Respondent No. 2, the Court must observe that even though the obligation of maintaining a minor child is on both the parents, it is equally well established that the duty of an able-bodied father to provide for his minor child does not get absolved solely because the mother has sufficient means⁷. Further, considering that the custody of Respondent No. 2 is with Respondent No. 1 and she is responsible for his well-being, the Petitioner's responsibility to provide for maintenance does not diminish merely because Respondent No. 1 is professionally established.

14. It is pertinent to reiterate the guiding principles elucidated by the Supreme Court in **Chaturbhuj v. Sita Bai**⁸, that the object behind Section 125 Cr.P.C. is to prevent vagrancy of dependents by compelling those who can provide support to extend the same to those who have a moral claim to the same, and who are otherwise unable to support themselves.

15. Thus, in light of the foregoing and having regard to the overall facts and circumstances, the Court finds no infirmity with the impugned order, directing the Petitioner to provide maintenance of INR 25,000/- to his minor son. The Court reiterates that interim maintenance orders, by their very nature, are provisional, temporary measures intended to ensure immediate support and prevent hardship to dependents pending comprehensive evidence and final determination. The amount awarded at the interim stage necessarily involves broad, *prima facie* estimations rather than precise mathematical calculations. Consequently, absent clear arbitrariness or

⁷ See **Shamima Farooqui v. Shahid Khan**, (2015) 5 SCC 705

⁸ (2008) 2 SCC 316

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material illegality, neither of which is demonstrated here, interference with such interim relief would be unjustified and unwarranted.

16. Therefore, the Court finds is no merit in the present petition. Dismissed along with pending application(s).

SANJEEV NARULA, J

MAY 5, 2025

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