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

+ CRL.M.C. 3422/2019, CRL.M.A. 31287/2019, CRL.M.A.
38962/2019

DAVENDER

.....Petitioner

Through: Mr. Suraj Bhan, Advocate

versus

MS. PARNEETA @ DOLLY & ORS.

.....Respondents

Through: Mr. Bhupesh Saini, Mr. Ravinder S.
Sharma, Mr. Narender Singh,
Mr. Ravi Kumar and Ms. Priya
Kashyap, Advocates.
Mr. Ajay Vikram Singh, APP for
State.

+ CRL.REV.P. 1147/2019, CRL.M.A. 39599/2019

DAVENDER

.....Petitioner

Through: Mr. Suraj Bhan, Advocate

versus

STATE, GOVT. OF N.C.T.D & ORS

.....Respondents

Through: Mr. Bhupesh Saini, Mr. Ravinder S.
Sharma, Mr. Narender Singh, Mr.
Ravi Kumar and Ms. Priya Kashyap,
Advocates.
Mr. Ajay Vikram Singh, APP for
State.

CORAM:



HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

18.08.2025

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1. The present petitions under Section 19(4) of the Family Courts Act, 1984 read with Section 397/401 and 482 of the Code of Criminal Procedure, 1973,¹ emanates from the application filed by Respondent (wife), under Section 125 of Cr.P.C. against the present Petitioner (husband). In those proceedings, the Petitioner herein was arrayed as the Respondent.
2. The Petitioner No. 1 got married to the Respondent on 19th November, 2013, as per Hindu rites and ceremonies in Delhi. From this marriage, parties have a son, who is in the custody of the Respondent. Owing to marital discord, the Respondent returned to her parental home and the parties have been living separately since 25th October, 2014.
3. The impugned orders challenged in CRL.M.C. 3422/2019 are:
 - a) Order dated 17th December, 2018, whereby PW-1 was discharged and the evidence of the wife (Petitioner therein) was closed;
 - b) Order dated 26th April, 2019, dismissing the husband's application under Section 311 Cr.P.C. with costs; and
 - c) Order dated 3rd July, 2019, allowing his request for exemption from personal appearance subject to costs.In addition, by way of CRL.M.A. 38962/2019, the husband has also impugned subsequent orders, namely:
 - i) Order dated 22nd August, 2019, closing his evidence;

¹ "Cr.P.C."



ii) Order dated 27th August, 2019, recording his statement under Order 10 of the Code of Civil Procedure, 1908,² noting that arguments on behalf of the wife had concluded, and listing the matter for further arguments; and

iii) Order dated 29th August, 2019, whereby arguments in the matter were concluded.

4. Counsel for the Petitioner acknowledges that during the pendency of the present petition, the proceedings have concluded and by order dated 13th September, 2019, the application filed by the Respondent wife under Section 125 Cr.P.C. has been allowed. The Petitioner has assailed the said final order in CRL.REV.P. 1147/2019, which has been denied by impugned order dated 13th September, 2019, relevant portion whereof reads as follows:

“11. Parties filed their income affidavits.

12. It may be noted from the record that vide order dated 10.03.2017 petitioners were awarded Interim-maintenance @7,500/each from the date of filing of the application.

13. Petitioner has filed affidavit of evidence Ex. PW-1/1. She relied on photograph of marriage at Ex. PW-1/A, copy of Aadhar card at Ex. PW-1/B, discharge slip at Ex. PW-1/C, copy of letter dated 24.08.2018 at mark A.

14. Petitioner was cross examined by the Counsel for the respondent. In her cross examination petitioner stated that she is a double graduate. She stated that the demand of car and cash amount of Rs. 5 lakh was made by the father-in-law on 19.11.2013 she stated that she is not aware about the reply given by her father to the demand of father-in-law of cash amount of 5 lacs, AC and Car. During cross examination PW-1 was confronted with document Ex.PW-1/R-1, application form filed by her in Education department, her bio data Ex. PW-1/R-2, face book ID Ex.PW-1/R-3 and ultrasound report at Ex.RW-1/R-4. She admitted all these documents. She stated that she has done one year diploma course in Computer Operating Programming Assistant.

15. Respondent did not lead RE despite opportunity and RE was closed vide order dated 22.08.2019.

16. Heard Counsel for the parties and also perused the record.

17. The factum of marriage and birth of the two children is not

² “CPC”



disputed. Section 125 Cr.P.C. is a social welfare legislation. The object of Section 125 Cr.P.C. is to stop vagrancy by making provisions for maintenance to the specified categories of persons therein, including wife and children. The fact remains that petitioner no.1 and the respondent are still husband and wife. Hence, in the instant case petitioners are held entitled for maintenance.

18. The evidence of the petitioner in the instant case proves that the relationship between the petitioner no.1-wife and respondent is not cordial.

19. Considering to this background, the claim of the petitioner no.1 for the grant of maintenance for herself and minor son is upheld.

20. The respondent in his WS claimed that petitioner no.1 is a teacher and earning Rs. 25,000/- pm by teaching in a school and rendering tuitions but he has not produced any documents to support his claim.

21. So far as income of the respondent is concerned, statement of the respondent was recorded u/o 10 CPC on 27.08.2019 wherein he stated that his net salary is Rs. 72,000/-pm but he does not remember gross salary. Counsel for the respondent filed latest salary slip of the respondent for the month of July 2019 according to which gross salary of the respondent is 90,291/- pm and net salary is Rs. 72,105/-pm hence, the following order:

ORDER

Petition is allowed Respondent is directed to pay a sum of Rs. 10,000/- pm each to the petitioners w.e.f. 13.09.2019 (date of order) and regularly thereafter.

It is made clear that the interim-maintenance order @ Rs. 7,500/-pm each awarded to the petitioners is maintained till disposal of the petition and the final order of awarding maintenance @ Rs. 10,000/- pm each to the petitioners shall be operative from the date of the final order i.e. 13.09.2019 and regularly thereafter.

Any payment regarding maintenance made by the respondent-husband in any other case shall be adjusted in this order.

A copy of this order may be given free of cost to the parties.

File be consigned to Record Room.

Pronounced in the open court on 13.09.2019.”

5. Counsel for the Petitioner contends that the Petitioner has been deprived of his indispensable right to contest the proceedings, inasmuch as he was not permitted either to cross-examine PW-1 or to lead evidence. It is submitted that the impugned orders reflect that the Trial Court proceeded in a perfunctory manner, thereby denying the Petitioner a fair opportunity to defend. It is further argued that the assessment of income undertaken by the



Trial Court is contrary to law, as no procedure exists under which a statement could have been recorded under Order 10 of the CPC, so as to bind the Petitioner for the purposes of determining maintenance. He further submits that Respondent No. 2 has concealed material facts, including her educational qualifications of B.A. and B.Ed., and is fully capable of earning on the strength of her professional qualifications. Despite this, the Trial Court erroneously awarded maintenance in her favour. It is also emphasised that the Respondent wife has committed offences under Sections 181, 182, 191, 193, 199 and 209 of the Indian Penal Code, 1860, for which proceedings under Section 340 Cr.P.C. have already been initiated at the instance of the Petitioner.

6. The Court has considered the aforementioned contentions but finds no merit in the same. The orders dated 17th December, 2019 and the subsequent order dated 26th April, 2019, dismissing the application under Section 311 Cr.P.C. reveal that the witness in question had already been cross-examined on two earlier occasions, extensively. On the third date, however, despite the matter being called thrice, no one appeared on behalf of the Petitioner to continue the cross-examination. In these circumstances, the Trial Court closed the Petitioner's right to further cross-examine and discharged the witness.

7. The grievance of the Petitioner that his evidence was closed arbitrarily or in a casual manner is without merit. The record itself shows that ample opportunities had been afforded to him earlier for leading defence evidence, yet he failed to avail of the same. Merely because the Petitioner had filed a revision against previous orders before this Court could not by itself justify indefinite adjournment of proceedings before the Trial Court. The Trial



Court, therefore, was fully justified in proceeding to close the evidence on 22nd August, 2019, particularly when the Petitioner had failed to show any cogent reason for further indulgence. The Court thus does not find any infirmity in the impugned procedural orders.

8. As regards the impugned order dated 13th September, 2019, this Court finds no infirmity in the same. The relationship between the parties is not in dispute; the Respondent is the legally wedded wife of the Petitioner and the minor son was born from the said marriage. It also stands admitted that, at the relevant time, the Petitioner was gainfully employed and earning approximately INR 72,000/- per month. This position was fairly conceded by counsel for the Petitioner during the hearing and is further borne out from the Petitioner's own statement before the Trial Court. Thus, the Trial Court has rightly relied upon these admitted facts in computing the maintenance, and this Court finds no reason to take a different view.

9. At this juncture, it is imperative to highlight that the fundamental duty of a husband is to provide maintenance to his wife and children, as highlighted by the Supreme Court in ***Shamima Farooqui v. Shahid Khan***³. In the said case, the Court underscored that a healthy, able-bodied husband has a legal obligation to provide maintenance to his wife. Furthermore, the Court emphasized that this obligation is amplified when the children are in the care of the wife. The Supreme Court in ***Anju Garg v. Deepak Kumar Garg***⁴, categorically made the following observations:

*“The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. **The husband is required to earn money even by physical labour, if he is an able-bodied, and could***

³ (2015) 5 SCC 705.

⁴ 2022 SCC OnLine SC 1314.



not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In *Chaturbhuj v. Sita Bai*, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy.”

[Emphasis Supplied]

10. In light of the aforesaid uncontroverted factual position, the award of maintenance in the sum of ₹10,000/- each in favour of the Respondent wife and son cannot be said to be either excessive or disproportionate. On the contrary, having regard to the settled legal position as enunciated by the Supreme Court in a long line of precedents emphasizing the duty of an able-bodied husband to maintain his wife and children commensurate with his means, the quantum so determined by the Trial Court appears to be wholly reasonable and justified.

11. With the above directions, the present petitions are disposed of.

SANJEEV NARULA, J

AUGUST 18, 2025

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