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

+ **CRL.REV.P.(MAT.) 231/2025**

SAURABH SETHI

.....Petitioner

Through: Mr. Vikash Malik, Mr. Sunny Sharma
and Mr. Amit Mathur, Advocates.

versus

BHAWNA DHAWAN AND ANR

.....Respondents

Through: Mr. Mohit Aggrawal, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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06.08.2025

1. The instant petition under Section 442 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023,¹ (formerly Section 401/482 Code of Criminal Procedure, 1973²) is directed against order dated 28th November, 2024, passed by Principal Judge, Family Courts, West, Tis Hazari Courts in MT No. 244/2023 titled '*Bhawna Dhawan & Anr v. Saurabh Sethi*'. By the impugned order, the Petitioner has been directed to pay interim maintenance of INR 12,000/- per month to Respondent No. 1 (his wife) and INR 8,000/- per month to Respondent No. 2 (the minor daughter of the parties), in proceedings under Section 125 of the Code of Criminal Procedure.

2. The Petitioner married Respondent No. 1 on 5th February, 2022, in

¹ "BNSS"



Delhi, in accordance with Hindu rites and ceremonies. The couple has a daughter, Respondent No. 2, who resides with Respondent No. 1. Due to marital discord and irreconcilable differences, the parties have been living separately since 2nd February, 2023.

3. Respondent No. 1 has instituted a petition under Section 125 of the Cr.P.C seeking maintenance for herself and the minor daughter. The petition remains pending. By the impugned order, the Trial Court assessed the income of the parties and fixed interim maintenance in the amounts noted earlier. The relevant extracts of the order, reflecting the reasoning adopted by the Trial Court is as follows:

“10. The object and spirit of interim maintenance is to award maintenance to the spouse who has no independent or sufficient income to support him/her and to contest the legal battle. In other words, the purpose of maintenance is to put the parties in a comfortable position and to enable the financially weaker spouse to prosecute his/her case. It is also important to note that maintenance provision is not meant to equalize the income or assets of the spouses or for that matter to penalize or cause undue enrichment to either. The crux of the matter is that the Court is required to adopt a fair and balanced approach while deciding the claim for maintenance. However, it does not ipso facto leads to the conclusion that whatever the petitioner deposes can be taken as a gospel truth. However, whatever this Court decides, it must be realistic.

*11. The Hon’ble Supreme Court in **Rajnish v. Neha** (2021) 2 SCC 324 observed as under:*

“78. The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the Petitioner no. 1 is educated and professionally qualified; whether the Petitioner no.1 has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the Petitioner no. 1 was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment

² “Cr.P.C.”



opportunities for nurturing the family; child rearing, and looking after adult members of the family; reasonable costs of litigation for a non- working wife.”

12. *The Hon’ble Supreme Court in the above judgment, cited the factors to be considered for determining maintenance as laid down by the Hon’ble High Court of Delhi in **Bharat Hedge v, Smt Saroj Hegde** 2007 SCC OnLine Del 622, which are:*

- 1. Status of the parties.*
- 2. Reasonable wants of the claimant.*
- 3. The independent income and property of the claimant.*
- 4. The number of persons, the respondent has to maintain.*
- 5. The amount should aid the Petitioner no.1 to live in a similar lifestyle as he/she enjoyed in the matrimonial home.*
- 6. Respondent's liabilities, if any.*
- 7. Provisions for food, clothing, shelter; education, medical attendance and treatment etc. of the petitioner no. 1.*
- 8. Payment capacity of the respondent.*
- 9. Some guess work is not ruled out while estimating the income of the respondent when all the sources or correct sources are not disclosed.*
- 10. The respondent to defray the cost of litigation.*
- 11. The amount awarded Under Section 125 Code of Criminal Procedure is adjustable against the amount awarded Under Section 24 of the Act*

13. *Apart from the aforesaid factors enumerated hereinabove, certain additional factors that would also be relevant for determining the quantum of maintenance payable, were further enumerated by the Hon’ble Supreme Court in the above case as:*

- (a) Age and employment of the parties*
- (b) Right to residence*
- (c) Where wife is earning some income*
- (d) Maintenance of minor children*
- (e) Serious disability or ill health*

14. *It is not in dispute that the petitioner no. 1 got married with the respondent on 05.02.2022 at Delhi and that petitioner no.2 is their daughter. The petitioner No. 1 and her daughter are residing in the house of petitioner no. 1’s parents in Delhi since 02.02.2023. The petitioner no. 1 is suffering from cancer and is presently unemployed. Admittedly, the respondent is not paying anything to the petitioners going to show that he is neglecting the petitioners and has refused to maintain them, despite having means. The respondent has claimed that he was working as a freelancer for real estate consultants/dealers at various places especially at Delhi and Gurgaon and earning Rs.14,000 to Rs.15,000 per month which was fluctuating as per availability and market demands. The bank account statement of the*



respondent with SRI shows deposits in the month of December 2021 totaling to about Rs. 34,000/- and in January 2023 to about Rs. 35,000/-. In his Punjab National Bank Account in the month of January 2021 there are deposits totaling to about Rs.83,000/- / and in March 2022 to about Rs. 22,000/-. The said deposits are more than the claimed income of the respondent going to show that he is not disclosing his real income.

15. It is a settled legal position that when the respondent tries to conceal his income and fails to produce the relevant documents or does not appear, the income has to be assessed on the basis of guesswork based upon the status of the parties, their lifestyle, and the social background of the parties. Reference is made to the judgment of the Hon'ble Supreme Court in **Jasbir Kaur Sehgal v. District Judge, Dehradun** (1977) 7 SCC 7, where it was held that:

“Considering the diverse claims made by the parties, one inflating the income and the other suppressing, an element of conjecture and guesswork does enter for arriving at the income of the husband. It cannot be done by any mathematical precision.”

16. The Hon'ble Supreme Court in **Rajnesh** (supra) observed as under:

“63. At present, the issue of interim maintenance is decided on the basis of pleadings, where some amount of guess-work or rough estimation takes place, so as to make a prima facie assessment of the amount to be awarded. It is often seen that both parties submit scanty material, do not disclose the correct details, and suppress vital information, which makes it difficult for the Family Courts to make an objective assessment for grant of interim maintenance. While there is a tendency on the part of the wife to exaggerate her needs, there is a corresponding tendency by the husband to conceal his actual income.”

17. Going by the standard of living of the parties, their status and the totality of facts and circumstances brought on record, the income of the respondent is assessed as about Rs.35,000/- to Rs. 40,000/- per month. Accordingly, the respondent is directed to pay interim maintenance of **Rs.12,000/- (rupees twelve thousand) per month for the petitioner No. 1/wife and Rs. 8,000/- (rupees eight thousand) per month for the minor daughter of the petitioner no. 1 and the respondent namely Harnoor Sethi (petitioner No.2) from the date of filing of the application till disposal of the petition.** The interim maintenance shall be paid by the respondent on or before the 10th day of each succeeding calendar month by depositing the same in the bank account of the petitioner No. 1. Arrears of maintenance shall be paid by the respondent within 6 months from today by depositing the same in the bank account of the petitioner No.1. The maintenance already awarded



or granted in favour of the petitioners in this or any other legal proceedings shall be adjusted. Nothing in this order shall tantamount to giving an opinion on the merits of the main petition. The application for interim maintenance is accordingly disposed off.”

4. Counsel for the Petitioner states at the outset that there is no objection to the maintenance awarded in favour of Respondent No. 2. The challenge is confined to the amount awarded to Respondent No. 1 being excessive, based on an inaccurate assessment of her earning capacity. In support, following submissions are advanced:

4.1. Respondent No. 1 is a college graduate and an able-bodied professional, having been gainfully employed as a Travelling Consultant both before and after the marriage, with an income of approximately INR 45,000/- in 2022. She possesses the qualifications and capacity to maintain herself, and cannot seek to invoke Section 125 Cr.P.C. as a means of deriving an unmerited financial advantage.

4.2. Respondent No. 1 has deliberately withheld details of her bank accounts and other income sources. Such non-disclosure, amounts to concealment of material facts which, if disclosed, could have materially influenced the assessment of her financial needs and the quantum of maintenance.

4.3. The Petitioner's own earnings, as reflected in his income affidavit, are modest, in the range of INR 15,000/- to 17,000/- per month. Despite this, the Trial Court has directed him to pay a total interim maintenance of INR 20,000/- per month to both Respondents, a figure, which, according to him, exceeds his means.

4.4. Respondent No. 1 has been wilfully residing separately without any sufficient cause. Thus, as per settled law she is disentitled to claim



maintenance under Section 125 CrPC.

5. Heard. At the outset, it must be emphasized that that the impugned order concerns only interim maintenance, a provisional arrangement intended to safeguard the subsistence needs of the claimant during the pendency of proceedings. Such orders are interlocutory in nature, and are subject to modification or adjustment upon appreciation of evidence at the final stage, and are intended to ensure that a dependent spouse or child is not left without means while the *lis* is pending.

6. The Trial Court found the Petitioner's assertion of earning merely INR 14,000/- to INR 15,000/- per month to be inconsistent with the credit entries in his bank statements, which reflected deposits significantly higher than his declared income, including amounts of Rs. 34,000/- in December 2021, Rs. 35,000/- in January 2023, and even Rs. 83,000/- in January 2021. This, coupled with his failure to produce complete financial records, led the Trial Court to conclude that his actual earnings were being understated. Drawing on the principle articulated by the Supreme Court ***Jasbir Kaur Sehgal v District Judge, Dehradun***³ that in maintenance proceedings an element of reasonable guesswork is permissible when income is concealed or not fully disclosed, the Trial Court assessed the Petitioner's monthly income in the range of INR 35,000/- to INR 40,000/-. The rationale is based on settled position that, in such cases, the Court must have regard to the parties' standard of living, social background, and overall circumstances, rather than rely solely on the self-serving statements of either party. Viewed thus, the Trial Court's method of assessing income was not only legally permissible but also consistent with the broader objective of Section 125



Cr.P.C., to prevent neglect of dependants where the earning spouse's true capacity is being obscured.

7. Respondent No. 2, a minor under three years of age, remains in the care and custody of Respondent No. 1. In these circumstances, the expectation that Respondent No. 1 should seek employment, even if she possesses the qualifications and prior work experience suggested by the Petitioner, is unrealistic. This is compounded by the undisputed finding of the Trial Court that she is undergoing treatment for cancer, a condition that itself severely limits her earning capacity and ability to engage in regular employment. The record also reflects that the Petitioner has not contributed financially towards the upkeep of the minor, thereby evidencing neglect in fulfilling his parental obligations. The Supreme Court in **Rajnish v. Neha**,⁴ has laid down comprehensive guidelines for the determination of maintenance. Adhering to these principles, the Trial Court has rightly directed the Petitioner to pay interim maintenance, having taken into account the fact that Respondent No. 1 is presently unemployed, solely responsible for the care and upbringing of her minor daughter, and is concurrently undergoing treatment for cancer.

8. The allegation that Respondent No. 1 deliberately withheld details of her bank accounts and other income sources are unsubstantiated. No documentary proof has been adduced to establish such concealment, nor is there material to indicate that disclosure of such details would have materially altered the Trial Court's assessment of her financial needs or the maintenance payable.

³ (1997) 7 SCC 7

⁴ (2021) 2 SCC 324



9. Equally untenable is the contention that Respondent No. 1 has been living apart from the Petitioner without sufficient cause. The record is devoid of any evidence to suggest that the separation was voluntary or without justification. In the absence of such proof, the disqualification under Section 125(4) Cr.P.C. cannot be invoked.

10. At this stage, it bears emphasis that an able-bodied husband carries a legal duty to maintain his wife and children. In ***Shamima Farooqui v. Shahid Khan***⁵ the Supreme Court reiterated that a healthy, able-bodied man cannot shirk this responsibility on the pretext of limited means or other excuses. Furthermore, the Court emphasized that this obligation is amplified when the children are in the care of the wife. Moreover, the Supreme Court in ***Anju Garg v. Deepak Kumar Garg***⁶, 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 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]

11. Having regard to the foregoing discussion and the settled principles governing interference in revisional jurisdiction, no arbitrariness, legal infirmity, or perversity is discernible in the impugned order so as to warrant interference.

⁵ (2015) 5 SCC 705.



12. It must be reiterated that an order of interim maintenance is a provisional measure aimed at ensuring the subsistence and basic financial security of the claimant during the pendency of proceedings. Such an arrangement neither crystallises the ultimate rights and obligations of the parties nor forecloses a fresh determination upon a full appraisal of evidence at the final stage.

13. For these reasons, the petition stands dismissed, along with all pending applications.

SANJEEV NARULA, J

AUGUST 6, 2025/MK

⁶ 2022 SCC OnLine SC 1314.