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

% ***Date of Decision: December 3, 2025***

\+ **CRL.REV.P. 880/2023 & CRL.M.A. 22868/2023**

DIVYA SHARMA & ANR. .....Petitioners

Through: Mr. Brajesh Pandey & Mr. Kanchan Kumar Jha, Advs. along with petitioner.

versus

SHIVAM SHARMA .....Respondent

Through: Mr. Counsel (Appearance not given)

**CORAM:**
**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**AMIT MAHAJAN, J. *(Oral)***

1. The present petition is filed under Section 397 read with Section 482 of the Code of Criminal Procedure, 1973 ('**CrPC**') against the order dated 31.05.2023 (hereafter '**impugned order**') passed by the learned Family Court, Tis Hazari Court, Delhi in MT No. 340/2020 for enhancement of interim maintenance.

2. By the impugned order, the learned Family Court assessed the monthly income of the respondent to be ₹61,500/- per month and awarded interim maintenance to the tune of ₹15,375 per month each to Petitioner No.1/wife and Petitioner No.2/minor daughter.

3. The petitioners essentially seek enhancement of the interim maintenance. The learned counsel for the petitioners submits that

only a meagre amount has been awarded to the petitioners as interim maintenance despite the fact that the respondent has been earning a huge amount of money.

4. He submits that the respondent concealed his income before the learned Family Court by filing an old income tax return. He submits that the income tax return of the respondent for the Assessment Year 2022-2023 reflects the respondent's gross income as ₹19,35,673/-

5. He submits that the respondent belongs to an affluent family and held the post of Deputy Advocate General, State of Uttarakhand. He submits that the respondent is paid a handsome amount of fees for daily appearance before the Hon'ble Supreme Court, along with a monthly retainership fee.

6. He submits that the respondent leads an extravagant lifestyle and owns multiple luxury cars.

7. He submits that the respondent has distinct businesses across the nation including fisheries and real estate. He submits that the respondent also owns schools and colleges, namely, Pt. Purnanand Tiwari Law College, Haridwar and Sita Devi Memorial Institution of Science and Technology.

8. He submits that the learned Family Court in the impugned order has noted the total income of the respondent as reflected in his income tax returns as ₹18,34,450/- for the Assessment Year 2019-2020 and ₹15,19,730/- for the Assessment Year 2020-2021 and has still computed the monthly income of the respondent as a meagre amount of ₹61,500/-.

9. *Per contra,* the learned counsel for the respondent submits

that the impugned order is well reasoned and warrants no interference by this Court. He submits that the respondent is no longer holding the post of Deputy Advocate General, State of Uttarakhand, as the entire panel has been changed.

10. He submits that the respondent had annexed appropriate income tax returns along with his income affidavit before the learned Family Court, in accordance with the judgment of ***Neha vs. Rajneesh* : (2021) 2 SCC 324**. He submits that even if the argument of the petitioners is to be accepted that the income of the respondent has increased, it does not mean that consequently the maintenance amount payable to the spouse ought to be increased.

11. He submits that the petitioners had also sought relief in the proceedings under the Protection of Women from Domestic Violence Act, 2005 before the application under Section 125 of the CrPC was filed before the learned Family Court. He submits that the amount of interim maintenance granted by the learned Magistrate under the DV Act was also ₹30,750/-. He submits that the said order of interim maintenance was also challenged before the learned Sessions Court and the same was upheld *vide* order dated 01.07.2024. He submits that the same amount has been granted in the impugned order and hence, it does not require intervention of this Court.

12. Undisputedly, the present order only relates to the grant of interim maintenance. The contentions raised by the parties would be the subject matter of the trial, and would be decided after the parties have led their evidence.

13. However, insofar as the grant of interim maintenance is concerned, it is settled law that the maintenance awarded should be commensurate to the income of the parties after *prima facie* assessing the income on the basis of material and affidavit filed on behalf of the parties.

14. A *prima facie* guess work, at this stage, can be made on the basis of the material placed on record and some amount of common knowledge.

15. In the present case, the respondent is stated to be a practicing advocate and was also Deputy Advocate General, State of Uttarakhand. The respondent is also stated to own several immovable properties and further owns several luxurious cars such as Mercedes, Toyota Innova and Toyota Fortuner.

16. As noted by the learned Family Court, the income tax returns of the respondent for the Assessment Year 2018-19 reflects the gross income of the respondent as ₹1,84,400. Further, as noted by the learned Family Court, the total income of the respondent for the Assessment Year 2019-2020 as well as Assessment Year 2020-2021, as reflected in the ITR is ₹18,34,450/- and ₹15,97,730/- respectively.

17. It has also been contended that the respondent owns colleges in the name of Pandit Purnanand Tiwari Law College, Haridwar and Sita Devi Memorial Institute of Science and Technologies.

18. Though, it is the contention of the respondent that his schools and colleges are run by a Trust and that he does not earn a penny out of them and merely holds an honorary post of

Treasurer in the said Trust, the same atleast reflects that the respondent belongs to affluent strata of society.

19. It is pertinent to note that the ITR of the respondent for the Assessment Years 2019-2020 and 2020-2021, reflects his total income for the respective years as ₹18,34,450/- and ₹15,97,730/- respectively. It can be ascertained from the aforesaid ITRs that the total income of the respondent has been steadily more than ₹1,00,000/- per month.

20. Considering the totality of circumstances, this Court is of the opinion that the assessment of the respondent's monthly income as ₹61,500/- is on the lower side. The ITRs of the respondent for the Assessment Years 2019-2020 and 2020-2021 coupled with the fact that the respondent undisputedly belongs to the affluent strata of society motivates this Court to assess the monthly income of the respondent as atleast ₹1,00,000/- per month.

21. It is relevant to note that the respondent has not disputed his relationship with the petitioners, being his wife and minor daughter, thus, undisputedly it is the duty of the respondent to maintain the petitioners.

22. This Court in the case of ***Annurita Vohra v. Sandeep Vohra* : 2004 (74) DRJ 99** had observed that the court should initially determine the net disposable income of the Husband or the primary earner within the family. If the other spouse is also employed, those earnings should be taken into consideration. This collective income forms the Family Resource Cake, which is then distributed among the family members. The allocation of

this "cake" should align with the financial needs of each family member, and an equitable approach would involve dividing the Family Resource Cake into two portions for the Husband, acknowledging his additional expenses incurred in earning, and one portion each for the other members.

23. The respondent has not asserted that he has any other dependent apart from the petitioners. Considering the same, this Court considers it apposite to enhance the interim maintenance from ₹15,375/- per month (to each petitioner) to ₹25,000/- per month to each petitioner from the date of filing of the petition. The impugned order is modified to that extent.

24. It is not disputed that the impugned order is only an order of interim maintenance. The defences raised by the parties, along with the allegations and counter allegations, would be the subject matter of trial, and would have to be decided after the parties have led their evidence.

25. The learned Family Court is directed to pass the final order uninfluenced by the observations made in this order.

26. The respondent is directed to pay the arrears within a period of four months.

27. The petition stands disposed of with the aforesaid observations. Pending application also stands disposed of.

**AMIT MAHAJAN, J**

**DECEMBER 3, 2025**
***"SK"***