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

+ CRL.M.C. 3796/2025 & CRL.M.A. 16608/2025, CRL.M.A. 16609/2025

RUPIKA SHARMA

.....Petitioner

Through: Mr. Arun Baali, Ms. Arisha Ahmad
and Mr. Vaibhav Kapoor, Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Hemant Mehla, APP for State.
SI Anup Rana, PS: Hari Nagar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

27.05.2025

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1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 482 of the Code of Civil Procedure, 1973²) is directed against the order dated 07th May, 2025 passed by the Court of Additional Sessions Judge, West District, Tis Hazari Courts, Delhi. By the impugned order, the Appellate Court dismissed Criminal Appeal No. 181/2024, filed by the Petitioner under Section 29 of the Protection of Women from Domestic Violence Act, 2005³, on the grounds of maintainability.

2. The said appeal arose from an interim direction issued by the Mahila Court on 2nd May, 2024, whereby the Petitioner was directed to furnish her bank statements and salary slips for the preceding one year, along with an

¹ "BNSS"

² "CrPC"



affidavit affirming that she had not received any benefit under the LIC policy of her deceased husband. The Sessions Court, while dismissing the appeal, took the view that the order in question was purely interlocutory in nature and did not adjudicate upon any substantive rights of the parties. Accordingly, the Appellate Court held that no appeal under Section 29 of the DV Act would lie against such an order. Aggrieved thereby, the Petitioner has approached this Court by invoking its inherent jurisdiction under Section 528 of BNSS (earlier Section 482 of the Cr.P.C.).

3. Before advertng to the contentions raised by the Petitioner, it is apposite to take note of the following facts, as narrated by the Petitioner:

3.1 The Petitioner got married to Late Sh. Neeraj Sharma on 22nd November, 2009 as per Hindu rites and customs in Delhi. From this marriage, a male child was born on 14th January, 2012.

3.2 In 2013, the Petitioner and her son were allegedly evicted from the matrimonial home by her husband and Respondents No. 2 and 3 (mother-in-law and brother-in-law). Since then, the Petitioner and her son have been living separately.

3.3 Subsequently, the Petitioner filed an application under Section 12 read with Sections 18, 19, 20 and 22 of the DV Act against her husband and her in-laws. However, during the pendency of the said proceedings, Sh. Neeraj Sharma deceased on 3rd February, 2017.

3.4 Following her husband's demise, Respondents No. 2 and 3 began allegedly withdrawing substantial amounts from his bank accounts and misappropriating his movable and immovable assets, thereby depriving both the Petitioner and her minor son of their rightful entitlements.

³ "DV Act"



3.5 The Petitioner and her son reside in a modest two-bedroom apartment along with her mother, and given the pressing need for adequate space for her son's upbringing, she moved an application under Section 19 of the DV Act, seeking either equivalent alternate accommodation to what she and her son previously enjoyed in the shared household, or, in the alternative, payment of rent commensurate with the same.

3.6 While considering the said application, the Mahila Court by order dated 2nd May, 2024, directed the Petitioner to produce her salary slips, bank account statements and an affidavit confirming whether she had received any proceeds from her deceased husband's life insurance policy.

3.7 Aggrieved by the said interim direction, the Petitioner preferred an appeal before the Additional Sessions Judge, which was dismissed on the ground of maintainability, resulting in the present petition.

4. Mr. Arun Baali, counsel for Petitioner raises the following contentions for assailing the impugned order:

4.1 Both the Mahila Court and the Appellate Court failed to appreciate that the Petitioner had not sought any monetary relief, and as such, there was no compelling basis to direct disclosure of her salary slips, bank statements, or other personal financial information. The impugned direction lacks any nexus with the relief actually sought by the Petitioner.

4.2 The legislative intention underlying Section 19 of the DV Act, is to safeguard a woman's right to reside in the shared household, or to secure alternate accommodation. In the absence of any claim under Sections 20 (monetary relief) or 22 (compensation), financial disclosures, particularly of the aggrieved party are irrelevant and legally unwarranted.

4.3 The impugned direction compelling the Petitioner to divulge personal



financial details, without demonstrating any material relevance to the adjudication of her claim, amounts to a disproportionate intrusion into her right to privacy, as protected under Article 21 of the Constitution of India. It is thus urged that such an order cannot be characterised as merely procedural or interlocutory in nature, since it directly impinges upon a fundamental right. On this basis, the Petitioner contends that the Sessions Court erred in declining to entertain the appeal on the ground of maintainability.

Analysis

5. The Court has considered the aforementioned contentions but remains unpersuaded. The order of the Mahila Court dated 02nd May, 2024, which was under challenge before the Appellate Court reads as follows:

“Previous cost paid by respondents.

Part arguments heard from both parties on the application of petitioner u/s 19 DV Act.

Petitioner is directed to file her salary slip as well as bank account statement of last one year and also file an affidavit to the effect that she has not received a sum of Rs.75 Lakh from LIC being. nominee of resp. No. 1 (since deceased) on or before NDOH with advance copy to opposite party.

Put up for further arguments on the application of petitioner u/s 19 DV Act on 19.07.2024.”

6. In appeal, the Sessions Court passed the following impugned order:

“Arguments addressed on behalf of appellant

2. Assailing the impugned order, Ld. Counsel for the appellant submitted that Ld. Trial Court passed the impugned order beyond the scope and requirements which are necessary to adjudicate the application under Section 19 of the Act and directed the appellant to produce her bank slips and bank statement to adjudicate whether she is entitle for an alternate accommodation or not; that Ld. Trial Court failed to appreciate that the appellant/complainant only sought residential right and not maintenance; that in the absence of any maintenance being claimed from the respondent, Ld. Court erred in summoning the salary slips and bank statement of the appellant/complainant which is perverse, irrational and unrelated to her prayer made in the application under Section 19 of the Act; that Ld. Trial Court failed to appreciate that the appellant/complainant cannot be



compelled by way of judicial orders to submit her personal information in the absence of any core issue and even otherwise the said documents has no role whatsoever in deciding the application under Section 19 of the Act, hence, the impugned order is liable to be set aside.

3. To buttress his arguments, on wrong provision if any quoted for seeking relief, Ld. Counsel for the appellant/complainant has placed reliance upon the judgment rendered by Hon'ble High Court of Delhi in **CM (M) No. 2342/2024** titled as **Rajeev Shukla Vs. Gopal Krishna Shukla**, wherein it has been held that:

“12. It is apparent that application for condonation of delay filed by the petitioner has been dismissed merely on the ground that it was filed under Section 151 CPC and not under the Limitation Act, 1963. The trial court has not addressed the application on merits. Mentioning wrong Section of law in an application by a party is typically not considered "Fatal" to the case, provided the substance of the application is clear and no prejudice is caused to the opposite party of the court. The courts generally prioritize substance over form, especially if the intention and relief sought by the party are apparent. If incorrect Section does not mislead the court or the other party and no prejudice is caused, the mistake is treated as a "curable defect". The trial court should have focussed on the content of the application rather than the technicalities of citing the incorrect Section. Procedural errors, including mentioning incorrect provision of law should not override the substantive justice. The Court has enough powers under Section 151 CPC to ensure that justice is served. The trial court underscored that it is a substance of the application that matters and not a form or the specific provision and should have considered the application on the merits regardless of respective provision under which the same was filed.”

Arguments addressed on behalf of respondents

4. Per contra, Ld. for respondents supporting the Impugned Order argued that there is no infirmity and illegality done by the Ld. Trial Court and has rightly passed the order which is an interlocutory order as no right interim or otherwise of the parties has been decided, hence, no interference is required by this Court. He further argued that the present appeal is nothing but sheer abuse of process of law and has been devised as a tool to not only harass the respondents but also for unjust enrichment.

Relevant portion of the Impugned Order

7. The Court heard the arguments as advanced by Ld. Counsel for both the parties and have gone through the material available on record including the Trial Court Record.



8. Before proceeding further, the Court finds it appropriate to discuss the relevant portion of the impugned order, whereby the Ld. Trial Court directed the appellant/complainant to file her salary slip as well as bank account statement and an affidavit, which reads as under:

“Part arguments heard from both parties on the application of petitioner u/s. 19 DV Act.

Petitioner is directed to file her salary slip as well as bank account statement of last one year and also file an affidavit to the effect that she has not received a sum of Rs.75 Lakh from LIC being nominee of resp. No. 1 (since deceased) on or before NDOH with advance copy to opposite party.”

Analysis and Observation

11. The present appeal has been filed under Section 29 of DV Act. Appellant/complainant has filed an application under Section 19 of DV Act seeking alternate accommodation or rent for the same. Section 19 of the Act deals with residence order to ensure the safety and well-being of aggrieved person by preventing the respondent from interfering with her residence.

12. The matter is herein the maintainability of the present appeal against the impugned order. Therefore, the Court deems it appropriate to first discuss the law on the point. In general parlance, if any order passed by Trial Court decides any question between the parties which directly affects the decision in the main case or which finally decides any collateral issue in perpetuity, it would be a judgment or order which is appealable but if an order, though deciding an issue between the parties finally, is temporary and interim and has no bearing or effect on the rights of the parties or the main issue involved in the case, it would fall within the parameters of an interlocutory order.

13. However, an appeal can be filed against an interlocutory order in a Domestic Violence (DV) matter, but it's not always straightforward. Section 29 of the Protection of Women from Domestic Violence Act, 2005, allows for appeals against orders made under the Act, including interim orders passed by a Magistrate. But, the interlocutory orders which don't affect the substantive rights of the parties may not be appealable under this Section. The present case is one such case since the order assailed herein is only for calling the salary slip, bank account statement and affidavit regarding receipt of LIC amount by the aggrieved in order to decide her claim for residence/alternate accommodation etc.

Conclusion

14. The Court has not decided the substantial right of the parties as an interim measure or finally and has only directed to file documents to assess the financial status before providing any relief to the aggrieved. Hence, this Court is of the view that the impugned order being totally interlocutory in nature, as it has not decided any right of the party yet



since the application is still to be adjudicated upon, the present appeal is not maintainable.

15. In view of aforesaid discussion, the present appeal is hereby dismissed being not maintainable and accordingly disposed of.

16. The Trial Court Record along with the copy of this order be sent back to the learned Trial Court.

17. The file of this appeal be consigned to record room after due compliance.”

[Emphasis supplied]

7. As is evident from the Mahila Court’s order dated 2nd May, 2024, the Petitioner was directed to furnish salary slips and bank statements for the preceding year, as well as file an affidavit clarifying whether she had received ₹75 lakhs as nominee under her deceased husband’s LIC policy. These directions were issued in the context of adjudicating her claim under Section 19 of the DV Act for alternate accommodation or equivalent rental support.

8. The submission advanced on behalf of the Petitioner, that disclosure of her salary slips, bank statements, or personal financial information was unnecessary for adjudication under Section 19 of the DV Act, in the considered view of this Court, is untenable. Section 19 of the DV Act empowers the Magistrate to issue various forms of residence orders upon satisfaction that domestic violence has occurred. The reliefs contemplated under sub-section (1) of Section 19, empower the Court to direct the respondent to secure for the aggrieved person an alternate accommodation equivalent to the shared household, or to pay rent in lieu thereof [clause (f)]. For the sake of convivence Section 19 of the DV Act is extracted below:

“Section 19 - Residence orders.

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—

(a) restraining the respondent from dispossessing or in any other



manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

(b) directing the respondent to remove himself from the shared household;

(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;

(d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;

(e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or

(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

Provided that no order under clause (b) shall be passed against any person who is a woman,

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to."

[Emphasis supplied]



9. Sub-section (6) of Section 19 provides that, while issuing such directions, the Court “*may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.*” The phrase “having regard to the financial needs and resources of the parties” necessarily requires an inquiry into the economic condition of both the respondent and the aggrieved party. When a claim is made for alternate residence or rent, the Court cannot make a just and proportionate order in isolation from the financial position of the person seeking that relief. In this context it is apposite to take note of the observations of the Bombay High Court in **Amit Satish Shah v. Archana Amit Shah & Anr.**⁴ wherein the Court emphasized that Section 19 does not contemplate blind deference to one party’s demands, but instead calls for a balanced and reasonable assessment of the circumstances. The Court observed:

“8. In the making of a residence order, no doubt the Court is required to have due regard to financial needs and the resources of the parties. In this case, there is material on record which indicates that the respondent has her own independent financial income. However, the petitioner, admittedly has to provide for the minor child. At the present stage, we are not concerned with the issue of maintenance per se. However there is nothing on record to indicate that the petitioner has been providing for any maintenance with respect to the minor child or his educational or medical needs. There can be no serious doubt that the responsibility to provide for not mere maintenance but also shelter to the minor child, is equally that of both the parents. In these circumstances, if the impugned order, requires the petitioner to bear the expenses to the extent of Rs. 8,000/- per month towards providing of shelter to the respondent and the minor child, there is nothing either unreasonable or unjustified in the same. This is not a case where the Family Court has completely disregarded the financial needs and resource of the parties. The test, in all cases cannot be that if the wife is in a position to provide for the financial needs of the child her spouse is relieved altogether of his obligation to contribute to the financial needs of such child. The phrase ‘having regard to financial needs and resources of the parties’ is required to be interpreted in a reasonable manner. All that the phrase requires is that the Court must have due regard to both the financial needs and the resources of the parties. Therefore, in making

⁴ 2014 SCC OnLine Bom 1517



orders under sub-section (1) of section 19 of the D.V. Act, the Court is not expected to impose some undue burden on any of the parties, by emphasizing disproportionately upon the needs and ignoring the aspect of resources.

However, this does not mean that in a situation where one of the spouses has the resource to provide for the minor children, the other spouse ought to be completely relieved of his obligation to provide for the same. Ultimately, it has to be borne in mind that the respondent in the present case continues to bear the expenses towards maintenance, educational and medical needs of the minor child. In these circumstances, if the impugned order, requires the petitioner to make a contribution of Rs. 8,000/- per month towards the residence requirements, then there is nothing unreasonable, which warrants interference of this Court in the exercise of powers of judicial review.”

[Emphasis supplied]

10. It is thus clear that while adjudicating an application under Section 19 of the DV Act, the analysis of the financial status of the aggrieved woman is an important consideration. Thus, in the facts and circumstances of the present case, the Petitioner’s asserted right under Section 19 of DV Act which stems from her assertion that the property occupied by Respondents No. 2 and 3, i.e., her mother-in-law and brother-in-law, is a “shared household”, would necessarily then also entail the Trial Court to consider her financial needs and existing resources and whether, in such circumstances, any liability can be foisted on the mother-in-law and brother-in-law to provide for financial assistance in the form of rent or for providing her alternate residential accommodation.

11. Therefore, in the opinion of this Court, the Mahila Court’s direction seeking furnishing of salary slips, bank account statements and an affidavit disclosing that she was not granted a benefit from her deceased husband’s insurance policy, is not unnecessary or irrelevant. The Petitioner’s financial disclosures will enable the Court to determine the extent of her actual need and ensure that any residence order does not result in an undue financial burden on the Respondents, while still ensuring that the Petitioner’s



legitimate entitlements are protected.

12. In view of the foregoing discussion, this Court finds no infirmity in the order passed by the Mahila Court or in the appellate decision rendered by the Sessions Court. The directions issued by the Mahila Court were indeed procedural in nature and well within the scope of judicial discretion conferred under Section 19 of the DV Act. No case has been made out for the exercise of this Court's inherent jurisdiction under Section 528 of BNSS, 2023 (corresponding to Section 482 Cr.P.C.).

13. It is clarified that nothing in this order shall be construed as an expression on the merits of the Petitioner's claim or the defence raised by the Respondents. All rights and contentions of the parties are left open to be adjudicated at the appropriate stage, in accordance with law.

14. Accordingly, the present petition is dismissed, along with pending applications.

SANJEEV NARULA, J

MAY 27, 2025
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