$~85

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

\+ CRL.REV.P.(MAT.) 256/2025, CRL.M.A. 16712-16713/2025

DEEPAK BHARDWAJ .....Petitioner

Through: Mr. Sanjeet Singh, Advocate.

versus

BHARTI BHARDWAJ & ANR. .....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **27.05.2025**

1. The present criminal revision petition under Section 438 read with Section 442 of Bharatiya Nagarik Suraksha Sanhita, 2023[1] is directed against judgment dated 27th February, 2025, passed by Additional Sessions Judge-02 (West), Tis Hazari Courts, Delhi[2], in Criminal Appeal No. 249/2024 titled as "***Deepak Bhardwaj v. Bharti Bhardwaj***". By the impugned order, the Appellate Court affirmed the order dated 7th May, 2024, passed by the Metropolitan Magistrate (Mahila Court-03), West District, Tis Hazari Courts, Delhi[3] in a petition filed under Section 12 of Protection of Women from Domestic Violence Act, 2005[4] enhancing the maintenance awarded to Respondent No. 2 from INR 5,000/- to INR

[1] "BNSS"
[2] "Appellate Court"
[3] "Mahila Court"
[4] "DV Act"

13,500/- per month, payable from the date of filing of the petition until the date of her marriage.

2. In brief, the factual matrix is as follows:

2.1. The Petitioner and Respondent No. 1 solemnized their marriage on 7th February, 2010 and from the said marriage, a girl child (Respondent No. 2) was born on 30th October, 2010. However, due to matrimonial discord and temperamental differences, the relationship between the parties deteriorated and they started living separately.

2.2. In 2012, when disputes arose between the parties, Respondent No. 1 lodged an FIR No. 138/2012, registered under Sections 498A, 406 and 34 of the Indian Penal Code, 1860[5], at P.S. Nangloi, against the Petitioner and his relatives. In said FIR, the Petitioner stands acquitted *vide* judgment dated 5th October, 2023, passed by the Family Court.

2.3. In parallel, Respondent No. 1 also initiated proceedings under Section 12 of the DV Act seeking maintenance for herself and her minor daughter. In these proceedings, by way of an interim order dated 14th October, 2016, the Mahila Court awarded INR 10,000/- per month as maintenance to each of the Respondents. On an appeal preferred by the Petitioner, this interim arrangement was modified *vide* order dated 25th September, 2016, reducing the monthly maintenance to INR 7,000/- for Respondent No. 1 and INR 5,000/- for Respondent No. 2. These payments were to continue until the final disposal of the proceedings.

2.4. The proceedings, however, lingered for nearly a decade before culminating into the order dated 7th May, 2024. By this order, the Mahila Court declined to grant any maintenance to Respondent No. 1 but enhanced the maintenance payable in respect of the minor daughter from INR 5,000/- to INR 13,500/- per month. This enhanced amount was made payable from the date of filing of the petition until the date of the daughter's marriage. The Court further directed that the sums previously paid to Respondent No.1 as maintenance be adjusted against the future maintenance payable to the daughter. The operative portion of the order reads as follows:

> *"22. With these observations, the present complaint petition filed under Section 12 of PWDV Act, 2005 stands dismissed partially and is only allowed qua the prayer for the maintenance of the daughter i.e. complainant no.2. Accordingly, no order for maintenance is being made for the complainant but since the party also have a minor daughter and R1 being legally duty bound to support his daughter and his income affidavit was filed in the year 2014 as per which, he was earning Rs.27,000/- per month and taking into account the average infaltion rate, his current income is assessed to be between Rs.40,000/- to Rs.41,000/- per month. Accordingly, he is directed to pay a maintenance @ Rs.13,500/- per month to the daughter i.e. complainant no.2, from the date of filing of the present petition till the date of her marriage, in her bank account on or before 10th of each month. Payment towards maintenance received by the daughter i.e. complainant no.2 in any other case or in this case shall stand adjusted and since the complaint has been dismissed, the respondent is also at liberty to set-off the amount of maintenance paid to the complainant in the present case till date, if any, towards the maintenance payable to the daughter. All the consequent proceedings thereof such as execution petitions filed by the complainant, if any, are also dismissed. Copy of this order be given free of cost to Complainant."*

2.5. The order dated 7th May, 2024 has been affirmed in appeal. The present challenge, therefore, is confined to the direction for maintenance awarded in favour of Respondent No. 2, the minor daughter.

3. While the Petitioner does not dispute his legal obligation to provide for his daughter, his challenge is confined to the manner in which this responsibility has been apportioned. The primary grievance is that the

---

[5] "IPC"

obligation to maintain a child rests equally on both parents, and yet the burden has, in effect, been placed solely on his shoulders. He contends that the present one-sided approach is not only inequitable but also legally untenable.

4. In support of this contention, Counsel for the Petitioner submits the following:

4.1. Respondent No. 1 has wilfully and deliberately made a false statement before the Appellate Court regarding her employment status. It is alleged that she has, in fact, been gainfully employed throughout the pendency of the proceedings and has intentionally concealed this fact to secure monetary benefits. The Petitioner maintains that the proceedings were strategically prolonged with the sole objective of extracting funds from him under the guise of child maintenance.

4.2. There is no material on record to justify the quantum of INR 13,500/- per month awarded to the minor child. The figure, it is submitted, bears no rational nexus with the pleadings or the evidence. The Petitioner points out that the interim maintenance for the child had previously been reduced from INR 10,000/- to INR 5,000/- *vide* order dated 25th September, 2016, and there has been no intervening change of circumstance or claim by the Respondents warranting such a steep enhancement.

4.3. The Mahila Court erroneously presumed Petitioner's monthly earnings to be INR 41,000/-, based on a decade-old Affidavit and not current evidence. The Petitioner asserts that his financial position has since deteriorated significantly, and that this aspect was neither considered nor tested against contemporary proof.

4.4. Both parties have since remarried and are now supporting new families. The Petitioner presently bears the financial responsibility of maintaining not only his aged mother, but also his second wife and a young daughter from the subsequent marriage. These additional obligations, he contends, were completely overlooked by the Mahila Court while determining his capacity to pay.

5. The Court has carefully considered the rival submissions, and the material placed on record. The broad principle invoked by the Petitioner, that the obligation to maintain a minor child is shared by both parents, is legally correct. However, this cannot be reduced to a mechanical formula of equal contribution. It is the sacrosanct duty of a father, who has adequate means, to provide for the maintenance of his dependents, and this responsibility cannot be shirked away from[6]. The quantum of maintenance in each case must be determined contextually, having regard to the child's needs, the economic capacities of both parents, and the standard of living the child is entitled to maintain. Furthermore, even if the mother is independently earning, it does not follow that the father's duty is diluted or extinguished as it his obligation to provide for his minor child, especially if the child is still in school. In this regard, this Court in ***Zahir Abdullah & Anr. v. Omar Abdullah***[7] observed as follows:

> *"**28. On the aspect of maintenance being paid to a major son, the Supreme Court as well as the High Courts have concurred on the observation that attainment of majority by a son should not absolve a father of his responsibilities of maintaining his children and ensuring that they secure proper education.** The Supreme Court in Kirti Malhotra v. M.K. Malhotra, 1995 Supp (3) SCC 522, had in fact noted that Rs. 1000/- per month of maintenance to an 18-year-old boy was on the lower side and directed it to be increased to Rs. 3,000/-. This direction was given despite the fact that the son had reached the age of 18. Though*

---

[6] ***Anju Garg & Anr. v. Deepak Kumar Garg,*** 2022 SCC OnLine SC 1314

[7] 2023 SCC OnLine Del 5341

this Court cannot delve deep into the minute and excruciating details of the matter, it can arrive at the well comprehended conclusion that a father has an equal duty to provide for his children and there cannot be a situation wherein it is only the mother who has to bear the burden of expenses for raising and educating the children [Refer to Urvashi Aggarwal v. Inderpaul Aggarwal, 2021 SCC OnLine Del 3242].

29. This Court finds weight in the submission of the learned Counsel for the Petitioners that the language of Section 125 Cr. P.C. was not meant to oust the duty of the father to provide for his son. ***<u>Keeping in mind the purpose and intent of the provision in question, along with the growing importance of obtaining higher undergraduate education for the purpose of securing employment, the father is legally and morally bound to ensure that his children, even if it is a major son. The Court also is inclined to agree with the argument of the learned Counsel for the Petitioners that the wife and the children must not be put in a position where they are deprived of the lifestyle and the comfort that they previously enjoyed. Even if the wife has sufficient financial means to sustain herself, the husband cannot wash his hands off the responsibilities that are bestowed upon him when it comes to the upbringing of his children."</u>***

<u>[Emphasis supplied]</u>

6. From the above, it is evident that a father's duty to maintain his minor child is not extinguished merely because the mother also has the capacity to earn. This duty continues until the child attains majority or becomes financially independent, and in case of a girl child, often extends until marriage. In the present case, the Petitioner has acknowledged his legal obligation; however, he seeks a reduction in the quantum of maintenance on grounds that are, in the considered view of this Court, not tenable in the facts at hand.

7. Turning to the question of income, the Appellate Court, while affirming the order of the Mahila Court, rightly took note of the Petitioner's disclosed income of INR 33,000/- per month at the time of filing. This figure was then adjusted to INR 41,000/- to account for the natural rise in earnings

over time and the effect of inflation. This approach cannot be faulted. Courts are not required to shut their eyes to economic reality; judicial notice can and ought to be taken of the rising cost of living. The Supreme Court in ***Rajnesh v. Neha***[8], underscored the importance of assessing income not merely statically, but with an eye on inflation and lifestyle indicators, especially where maintenance for children is concerned.

8. On the aspect of Respondent No. 1's financial status, this Court finds no persuasive basis to hold that she possesses equivalent earning capacity. Although the Petitioner alleged suppression of income, no conclusive proof to that effect has been adduced. Even if one were to take the Respondent's alleged income of INR 16,355/- per month at face value, such amount would be insufficient to bear the financial responsibilities of a growing child, particularly one which is still enrolled in school. It is well settled that maintenance must cover not only subsistence but also educational, medical, and day-to-day needs in a manner that reflects the child's legitimate expectations of care, development, and dignity. These elements cannot be overlooked while fixing quantum.

9. In view of the above, and bearing in mind the overall circumstances, including the child's age, schooling, and future needs, this Court finds no merit in the challenge mounted by the Petitioner. The impugned judgment does not disclose any legal infirmity or error of approach that would warrant interference. The quantum of INR 13,500/- per month, payable from the date of filing of the petition until the date of her marriage, in the considered view of the Court, is neither excessive nor unreasonable.

10. In light of the above, the present petition is dismissed along with the

---

[8] (2021) 2 SCC 324

pending application(s).

SANJEEV NARULA, J

MAY 27, 2025
nk