



\$~29

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

+ **CRL.REV.P. 1064/2023**

KUMARI TIYA MINOR THROUGH HER
NATURAL GUARDIAN/MOTHER RENUPetitioner

Through: Mr. Anurag Ahluwalia,
Adv. (through VC)

versus

NAVEEN KUMARRespondent

Through: Mr. Nimish Chib, Adv.
(through VC)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

12.09.2025

1. The present petition is filed by the petitioner, through her mother, seeking enhancement of maintenance awarded by judgment dated 28.08.2023 (hereafter '**impugned judgment**'), passed by the learned Family Court in MT No. 112/2019.
2. By the impugned judgment, the learned Family Court partly allowed the petition filed by the petitioner and her mother under Section 125 of the Code of Criminal Procedure, 1973 ('**CrPC**') and awarded a sum of ₹8,000/- per month as maintenance to the petitioner with 5% increase per annum starting from 01.03.2020. It was noted that as the mother of the petitioner is earning a regular income of around ₹53,000/- per month, she was not entitled to any maintenance from the respondent. It was observed that the respondent's salary slip indicated that he was earning a net salary of ₹38,273/- per month



and both the parents were responsible for maintaining the petitioner.

3. It is argued that the respondent had concealed his actual income and the learned Family Court had based the assessment of the respondent's income on the basis of his salary slip for the month of March, 2022. It is submitted that the learned Family Court has considered the net salary rather than the actual drawn salary of the respondent and failed to appreciate the necessities of the petitioner.

4. On the other hand, the learned counsel for the respondent has submitted that the awarded amount is fair and reasonable. He submits that the learned Family Court has aptly appreciated that the income of the petitioner's mother was higher than the respondent and enhancing the maintenance amount would result in undue financial burden upon the respondent.

5. I have heard the counsel and perused the record.

6. The impugned judgment is challenged to the limited aspect of the quantum of maintenance awarded to the petitioner, which is stated to be inadequate for meeting the expenses of the petitioner.

7. The petitioner is aggrieved that the learned Family Court has assessed the income of the respondent on the basis of his salary slip for the month of March, 2022 instead of a more recent salary slip. In the opinion of this Court, considering that the respondent is a government employee, it seems improbable that his salary would have grown exponentially over the period of one year. Even otherwise, it is pertinent to note that the learned Family Court has awarded a 5% increase per annum starting from 01.03.2020, which addresses the issue of the awarded



maintenance increasing in line with the salary of the respondent.

8. Insofar as the argument in relation to the maintenance being awarded on the net income rather than gross income is concerned, this Court finds no fault in the approach adopted by the learned Family Court. It is settled law that the maintenance must be awarded on the free income that is available to a party after all the necessary and non-discretionary expenses [Ref. ***Kulbhushan Kumar (Dr) v. Raj Kumari : (1970) 3 SCC 129***].

9. Where both parents are working, the responsibility of maintaining the minor child cannot be solely fastened on the father, and both parents are expected to shoulder the expenses of their child in proportion to their income. Just like a father has a duty to maintain his children, a mother who is earning an income is also obligated to contribute towards the expenses of the child. In this case, it has been found that the mother of the petitioner is earning a higher income than the respondent/ father. It has been rightly observed that as the parents of the petitioner have a regular and good source of income, they are both required to share the expenses of the petitioner. The purpose of Section 125 of the CrPC is to prevent vagrancy and the same cannot be allowed to become a tool for unjust enrichment.

10. At this juncture, it is necessary to also take note of the fact that the respondent had also fairly conceded before the learned Family Court to bear a portion of the expenses incurred for maintenance of the petitioner. Thus, the present case does not appear to be one where the father is looking to shirk his duty and avoiding his responsibility to maintain his child.

11. Although bald averments have been made to state that the awarded maintenance amount is inadequate, however, no cogent



material has been placed on record to reflect the current expenses incurred for maintaining the petitioner. There is thus no reason to believe at this stage that the petitioner's mother is pitching in more than her expected share as a parent or that the awarded maintenance amount is inadequate.

12. In view of the aforesaid discussion, this Court finds no reason to interfere with the impugned judgment.

13. The present petition is accordingly dismissed.

AMIT MAHAJAN, J

SEPTEMBER 12, 2025

'KDK'