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

+ **CRL.REV.P. 446/2021**

AVNEET KAUR & ORS.

.....Petitioners

Through: *Appearance not given*

versus

SATINDER SINGH KAKAR

.....Respondent

Through: Mr. Atul Kharbanda, Mr. Gaurav
Chaudhary and Mr. Neeraj,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

16.01.2025

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1. The present petition under Section 397 read with Section 401 of the Code of Criminal Procedure¹, assails the order dated 31st January, 2020² passed by Family Court, (South-East) District, Saket, thereby fixing the maintenance to be provided by the Respondent to the Petitioners. The brief facts leading to the filing of the present petition are as follows:

1.1. Petitioner No. 1 is the wife of the Respondent. The marriage between the parties was solemnized as per Sikh rights and customs on 23rd December, 1995. From this union, two children – i.e., Petitioners No. 2 and 3 were born who presently reside with their mother. According to the Petitioner No. 1, the separation between her and the Respondent came about

¹ “Cr.P.C.”

² “Impugned order”



in 2007, however, according to the Respondent, the couple got separated in 2005. Regardless, it is undisputed that the parties have been living separately for a significant period. The Respondent has also filed a petition seeking divorce from Petitioner No. 1 on the ground of desertion, which is currently pending consideration.

1.2. In 2010, the Petitioners filed a petition under Section 125 of Cr.P.C., before the Family Court, (South-East) District, Saket, seeking maintenance from the Respondent. In the said petition, Petitioner No. 1 *inter-alia* claimed that she was suffering from acute rheumatoid arthritis, SLE and photo sensitivity, which rendered her unable to work and entirely dependent on her father. On the other hand, the Respondent submitted that his earning as a cab driver was a meagre amount of Rs.20,000/- per month. The parties presented evidence in support of their respective contentions and based thereon, the Trial Court passed the impugned order dated 31st January, 2020, awarding maintenance as follows:

“63. Keeping in mind the above proposition of law, on a consideration of entire facts & circumstances, taking the income of the respondent to be about Rs. 80,000/- per month and the income of the petitioner no. 1 from interest on the savings and keeping in view the status of parties, their respective needs, capacity of the respondent/husband to pay, his own expenses, his liabilities, inflation and also keeping in view the overall facts, the respondent is directed to pay maintenance to the petitioner No. 1 @ Rs. 28,000/- per month and petitioner no. 3 @ Rs. 8,000/- per month from 01.02.2020 till they are legally entitled to receive the same.

For the period from 15.07.2010 till 13.09.2016, the respondent is directed to pay maintenance petitioners. Rs. 26,000/- per month to the Petitioners.

The respondent is directed to pay maintenance Rs. 26,000/- per month to the petitioner nos. 1 & 3 for the period from 14.09.2016 to 31.01.2020.

Petitioners would also be entitled to enhancement in maintenance @ 10% after every two years.”



1.3. The Trial Court fixed the aforementioned maintenance amount after raising doubts on the claim of the Respondent regarding his income claim of only Rs. 20,000/-. The Court, concluded that the income of the Respondent would be close to Rs. 80,000/- per month. The income of Petitioner No. 1, derived from interest on savings, was also factored into the maintenance determination. However, dissatisfied with the quantum of maintenance awarded, the Petitioners have filed the present petition challenging the order.

2. At the very outset, counsel for the Petitioners clarifies that the challenge in the present petition is confined to the quantum of maintenance determined by the Trial Court and does not extend to its findings regarding the Respondent's misrepresentation of his income. He contends that while the Trial Court rightly concluded that the Respondent's declared income was inaccurate, it erred in estimating his actual earnings at Rs. 80,000/- per month. As a result, the maintenance awarded, based on this flawed assessment, is insufficient and warrants enhancement.

3. The Counsel for the Petitioners contends that an analysis of the testimonies on record reveals significant discrepancies in the assessment of the Respondent's income. He draws attention to the observations made by the Trial Court in the impugned order, which categorically note that the Respondent is actively involved in his father's business of operating a Guest House in a prime locality of South Delhi. The Respondent is managing multiple businesses, including a Tours and Travels agency, a beauty parlour, a cybercafé, and engaging in real estate and the design and display of hoardings. In light of these facts, it was erroneous for the Trial Court to assess the Respondent's income at a mere Rs. 80,000/- per month. He submits that the nature of these businesses would reasonably generate



significant income, which the Respondent has deliberately concealed. Consequently, the maintenance awarded to the Petitioners is inadequate and ought to have been determined at a higher amount.

4. Expanding on this contention, Counsel asserts that the Respondent's claim of not running these businesses and attributing their ownership and operations solely to his father is a mere facade intended to obscure his actual earnings. He submits that the Respondent resides with his father at the matrimonial home of Petitioner No. 1 and that the claim of living at a rented property is a false narrative supported by doctored documents. Counsel points to the Respondent's identity proofs, which continue to reflect his father's house (the matrimonial home) as his residential address. In light of the above, he argues that the income of only Rs. 80,000/- per month as assessed by the Trial Court is erroneous, and inconsistent with its own findings in Paragraph Nos. 49 and 52 of the impugned order. He submits that the actual income of Respondent is Rs. 8 Lakhs per month and the Trial Court's findings to the contrary are perverse. As such, Counsel urges this Court to rectify the error and enhance the maintenance awarded to the Petitioners in line with the true financial standing of the Respondent.

5. Furthermore, counsel for the Petitioners points out that under the impugned order, the Respondent has been directed to pay an amount of Rs. 8,000/- to Petitioner No. 3 (his younger son) until he attains the age of majority. Upon Petitioner No. 3 turning eighteen, the Respondent unilaterally discontinued the payment. Nonetheless, Petitioner No. 3, despite attaining majority, is financially dependent on his parents as he is currently pursuing a Bachelor of Business Administration (BBA) degree at Amity University. Therefore, it is argued that the obligation of the Respondent to



provide maintenance should continue until Petitioner No. 3 completes his education and is capable of self-sustenance. In this regard, reliance is placed on the judgments of this Court in *Urvashi Aggarwal and Ors. v. Inderpaul Aggarwal*³ and *Zahir Abdullah & Anr. v. Omar Abdullah*⁴, to urge that maintenance under Section 125 of Cr.P.C. can be awarded for the educational expenses of a child who has attained the age of majority.

6. Lastly, it is submitted that the medical expenses of the Petitioner No. 1 have doubled from 2014 to 2021. In this context, it is argued that the 10 percent enhancement factored into the impugned order is insufficient to meet her growing medical and living needs.

7. On the other hand, counsel for the Respondent states that although the Trial Court assessed the Respondent's income contrary to record, he has not challenged the order and has complied with it diligently. He emphasizes that the Respondent has been consistent in making monthly maintenance payments as directed by the Court and has, to date, paid a total sum of Rs. 64 lakhs to the Petitioners. Contrary to the Petitioner's claims, Counsel for the Respondent submits that the Respondent is a cab driver, who has developed severe orthopaedic issues, rendering him incapable of continuing his driving profession. This health condition, according to the Respondent, has further strained his ability to generate sufficient income. Despite these challenges, the Respondent has honoured the maintenance obligations imposed by the impugned order through his best efforts.

8. Counsel for the Respondent further contends that the narrative advanced by Petitioner No. 1 regarding her health conditions is contradicted

³ 2021 SCC OnLine Del 3242

⁴ 2023 SCC OnLine Del 5341



by the documents on record, which show that she is engaged as a fashion designer and operates a boutique shop. This, he argues, demonstrates her capacity to contribute to the financial support of the children. Additionally, the Respondent has borne expenses beyond those stipulated in the impugned order, including mobile and internet costs for Petitioners No. 2 and 3. The Respondent has also provided a cashless Mediclaim policy with a coverage of Rs. 10 Lakhs to ensure their medical needs are met. Counsel argues that these actions unequivocally establish that the Respondent has not shirked his responsibilities and has fulfilled his duties as a father to the best of his abilities. In view of the above, counsel for the Respondent submits that there is no compelling reason to enhance the maintenance amount awarded by the Trial Court, especially given the Respondent's health challenges and his demonstrated compliance with the impugned order.

9. The Court has considered the aforementioned contentions. The impugned order meticulously takes into account all the contentions and claims raised by the parties, as well as the testimonies and the evidence produced on record. The relevant extracts of the impugned order are as follows:

“38. Now the question, arises whether the petitioners have sufficient means to maintain themselves.

39. In the income affidavit filed by the petitioner no. 1 on 13.05.2019, she has shown her educational qualification as BA (Part I) and professorial qualification as Diploma in Fashion Designing. She has shown her monthly income as Rs. 5,695/- from the interest on the investments made by her father and her monthly expenditure as Rs.1,69,042/-. She has stated that she is not assessed to income tax nor has sufficient income to support herself. She has been staying with her father, who is a retired army officer and pensioner, receiving pension of Rs.86,000/- per month. Her mother has been suffering from cancer. She has two sons aged 20 & 15 years. They are dependent on her. Younger one has been studying in Army Public School Noida. She has stated that although she was granted interim maintenance @ Rs.26,000/- per month vide order dated 22.05.2014 but the respondent reduced the amount of his own. He also stopped paying her maintenance



since June 2017...xx.....xx.....xx.....xx.....xx... She has stated that her father has been bearing all the expenses on the education of her children.
...xx.....xx.....xx.....xx.....xx...

40. Her testimony shows that on 23.11.2007 under threat to life by the respondent, she along with her minor children was forced out of the matrimonial house leaving all her belongings there. Since then she has been staying with her parents at Noida, She has been suffering from acute rheumatoid arthritis and is unable to do any job nor has income of her own. She is financially dependent on her father, who has retired from Army. Due to. photo-sensitivity, she cannot come out in the Sun. Her left leg has deformed. She is on life saving steroids for her whole life. The medical documents Ex. PW3/D & Ex. PW3/E also support her testimony, which find mention that the petitioner is a known case of SLE, rheumatoid arthritis with photo-sensitivity. PW3 has deposed that due to her serious illness. she is unable to take any job. All her medical expenses are being taken care by her father. The respondent never cared for her. She and her children are totally dependent on her father for their day-to-day needs and medical expenses etc. It has also come in the testimony of PW-3 that it is very embarrassing for her to take monetary help from her father. Her elder son wants to pursue his career in body building for which he needs to go to gym. His monthly gym expenses along with annual fee are Rs. 18,000/-. The respondent never bothered to inquire about his career or future planning.

41. Ld. Counsel for the respondent has contended that the petitioner has concealed her income from the Court; she owns a fashion house and has sufficient finance to support herself; she stays in a five star hotel; and her medical documents are false and fabricated.

I find these contentions sans merit as in the instant case, the respondent has failed to place any document/evidence to show that the petitioner no. 1 runs a fashion house or has sufficient finance/income to support herself or her medical documents are false and fabricated. PW-3 has categorically denied that the medical documents filed by her are false and fabricated or she had procured the documents to show that she cannot stand or walk. Further, the respondent did not lead any evidence to disprove these facts. Admittedly, the respondent has taken mediclaim policy for the petitioners but this medical policy does not cover OPD treatment, doctor consultations, lab tests and medicines etc. PW3 has denied that she did not avail the mediclaim policy since she was self sufficient to bear the expenses or she has apprehension that on medical check up, she would be exposed. She has also denied having served with K. C. International at East Patel Nagar. She has stated that she had worked in a company for six months but due to health problems, she had to leave the job:

During arguments, Ld. defense counsel had also referred the photographs of the petitioner no. 1 going/staying at the hill stations and



celebrating the festivals but from the photographs, it cannot be made out that the petitioner/PW3 has not been suffering from the above diseases or she is physically fit and capable of earning. She has denied that she is healthy and hearty or that she always pretended to be not well. She has also denied that she has independent source of income.

42. PW1/her father has corroborated the testimony of PW3 and stated that the petitioner no. 1 has health issues. Ever since her ouster from the matrimonial home, she is dependent on him for her day to day needs. He has been supporting them financially. He has stated that although, the petitioner no. 1 did job for six months but due to her ill health, she had to leave the job. PW4 also supported the testimony of PW3 and stated that the petitioner no. 1 has been suffering from various diseases. All her medical expenses are being taken care by his maternal grandfather.
 ...xx.....xx.....xx.....xx.....xx... He has stated that his father/respondent never cared for her and he always shied away from maintaining them: He has stated that he wants to pursue his career in body building and modeling for which he has joined a gym. His monthly gym expenses are Rs. 20,428/- per month, which are being borne by her maternal, grandfather. The respondent never bothered to inquire about his career or future and put all the responsibility on his maternal grandfather and ailing mother.

Although, the respondent/RW1 has stated that besides paying the maintenance and internet bills for on-line studies/tuitions, but nothing can be inferred from this that the petitioners have independent source of income or they do not need maintenance.

...xx... ...xx... ...xx... ...xx... ...xx...

44. In the light of what has been stated above, it is clear that the petitioners have no source of income except the income from the interest. They are unable to maintain themselves without the financial support of the respondent. They are financially dependent on the father of the petitioner no. 1 from the day they have been living with him in his flat at Noida.

45. Now the question arises whether the respondent is having sufficient means at his disposal to maintain the petitioners.

46. PW-3/petitioner no. 1 has deposed that the respondent is a man of means and status, He is highly professional and runs hotel and hotel related business. He also does tours & travels business. He runs a beauty parlor inside the guest house, and sells all the related products. He runs a cyber cafe and a mobile accessories shop in the guest house. He has a business of designing, making and displaying of hoardings. He is also into the business of real estate. His income is about Rs. 8.0 lacs per month. She has stated that at the time of marriage, they were told that the respondent has joint



business with his father. She has denied that respondent does not have any independent business. She has also denied that the father of the respondent has turned the respondent out from the matrimonial house and disowned him. PW1, the father of the petitioner has also corroborated the testimony of PW3.xx.....xx.....xx.....xx.....xx....

47. The respondent/RWI has deposed that although he did not have sufficient means or source of income but he managed to pay the interim maintenance by taking loan from his father. He had received monetary help from his father till July 2016 and made the payment without any single default. Now he has been working as a Manager on contractual basis w.e.f. 15.11.2016 with Congress Tourist Taxi Service on a salary of Rs.20,000/- plus Rs.3,500/- as conveyance charges. Petitioner no. 1 had filed an execution in the divorce petition, where the property of his father was directed to be attached. His father had filed the objections on the execution that he is the owner of the property and thereafter, he debarred him from his properties, giving notice in the newspaper on 21.07.2017. It was his father, who was involved in the hoarding business and had entered into an agreement with the vendor. He has no source of income except his salary. He was constrained to sell his car, which was taken on installment. He had borrowed money from his father every now and then to pay the maintenance. When he got annoyed, he debarred him from his movable/ immovable properties. He was also asked to leave the house. He had no other option but to go on a rented accommodation at Malviya Nagar. He also placed on record the affidavit of asset, income and expenditure Ex. RW1/DA dated 13.05.2019.

In his cross examination, he admitted that at the time of marriage, he was assisting his father in his guest house. He stated that Sunny Associates does not belong to him, which has a board in front of the guest house. He does not remember, if he had created an e-mail ID in the name of xxxxxx@yahoo.com. He stated that his nick name is not Sunny. But when he was confronted with his income tax returns Ex. RW1/15 (colly), he admitted that his e-mail ID xxxxxx@yahoo.com has been used in the returns. He could not answer how this e-mail ID appeared in his returns. He also admitted that in the mediclaim policy of the year 2019-20, his e-mail ID has been recorded as xxxxxx@yahoo.com and his address as XXX, East of Kailash, New Delhi. He has stated that the house at Malviya Nagar belongs to Ranjeet Singh/RW-2, with whom he has been working on contractual basis as Manager. He has stated that although, his father had disowned him from his movable/immovable properties but had allowed him to live in the house, where he lived upto December 2018. He denied that his father never debarred him and he has still been living in the said house. He has stated that he had assisted his father in his business of guest house upto July 2016. He used to do the business of mobiles and taxi services as a part time. He



has stated that his father is financially independent, however, for other activities i.e. for taking him to the hospital, he is dependent on him. He admitted his income tax returns of 2005 to 2007 Ex. RW1/DE (colly) but denied that he was handling the business of guest bouse, hoardings, cyber cafe even prior to 1995 and for this reason he had shown his income in the returns ...xx.....xx.....xx.....xx.....xx...

48. RW-2, proprietor of Congress Tourist Service has stated that on the basis of the experience of the respondent he had appointed him as a Manager on contractual basis w.e.f. 15.11.2016 on a salary of Rs. 20,000/- plus conveyance @ Rs. 3500/- per month
...xx.....xx.....xx.....xx.....xx

49. On an analysis of the testimonies of above witnesses and the record, I find that the petitioners have been living separately from the respondent since 23.11.2007. Before that, the petitioner no. 1 had been living in her matrimonial house at XXX, East of Kailash, New Delhi. The house is owned by the father of the respondent. The respondent has one more brother, who is settled in US. It was the respondent, who was assisting/handling the business of his father, who has a guest house in the name of Deepak Guest House at XXX, Greater Kailash Part I, New Delhi, which is situated in a posh locality at South Delhi. He was also involved in the business of Tours & Travels, beauty parlor, cyber cafe etc in the guest house, designing and displaying hoardings and business of real estate. In the affidavit of assets and expenditure filed in April 2013, he had stated that he has been taking care of the guest house of his father, who has been suffering from brain haemorrhage and he has been getting Rs. 35,000/- per month. He had also given his mobile number as XXXXXX. The website of Olx.com and Ask me also find mention about the respondent into the business of Tours & Travels, real estate, xx.....xx.....xx.....xx.....xx.... He had also displayed the board/hoardings in this regard giving his mobile number as XXXXXX and email xxxxxx@yahoo.com. He had also filed income tax returns showing his income from business and profession Ex. RW1/DE. All these show that the respondent was actively connected in the business of real estate, hoardings and other related business including Tours & Travels.

50. Although, the respondent/RW1 has stated that when his father received the notice on the execution filed by the petitioner no. 1, he disowned him by giving notice in the newspaper on 21.07.2017 Ex. RW1/DB and before that, he had been giving him loans to pay the maintenance as agreed by him and thereafter, he stopped paying him the money but his testimony would also show that he lived in the house with his father till December 2018. It is strange that a father, who has disowned him had



allowed him to stay in his house till December 2018. For the sake of arguments, even if it is assumed that his father had allowed him to stay in the house, what made him leave the house in December 2018 and take an accommodation on rent at Rs. 10,000/- per month, when his salary was merely Rs. 20,000/-. The record shows that he did not get the address changed either in his bank account or the Aadhar Card. His testimony also shows that his father for other activities i.e. for taking him to the hospital, is dependent on him.

51. It is also manifest from the record i.e., the hoardings, websites Olx.in and Ask me that even after 2017, when he was allegedly disowned by his father, he was into the business of real estate and Tours & Travels operating from Deepak Guest House, the statements of his accounts with HDFC Bank and Punjab National Bank Ex. RW1/11 also indicate the transactions of the amounts more than Rs. 20,000/- every month in the years 2017-2018.

The reasonable inference, which can be drawn from the facts & circumstances of this case is that the respondent was actively involved in the business of the guest house and allied activities and he made this sham arrangement to deny maintenance to the petitioners. RW2 is an old friend of respondent. He has acquaintance with him for about 14 years. Before allegedly joining him, he was also into the business of Tours & Travels. So the possibility of respondent showing him employed with RW2 cannot be ruled out.

52. In the instant case, the respondent did not call his father in the witness box, though, he was the material witness. In the absence of his examination and in the light of the above facts, no credence can be given to the testimony or RW 1 that he is not a man of means and his only income is from his salary from Congress Tourist Taxi Services. From the facts & circumstances, it can be gathered that this arrangement of disowning the respondent from the properties/business by his father was only on papers, though in actual, the respondent has been living with his father in his house and managing the whole affairs of Deepak Guest House and other activities. Overall conspectus of circumstances also suggest manipulation by the respondent with his father to deprive the maintenance to the petitioners. What he could not do directly, he tried to achieve indirectly.

Facts & circumstances show that the respondent has not disclosed his correct & true income in the income affidavit. He also concealed his income from the Court. He is an able bodied person. He has an experience in this business/profession for more than 25 years. It is true that he is 12th class pass but with his experience, he can very well earn more than Rs. 80,000/- per month. It is difficult to believe that a person



having so much experience would work in a Taxi Tourist Service on a meagre salary of Rs. 20,000/- as alleged.

...xx...

...xx...

...xx...

...xx...

...xx...

56. For the aforesaid discussions, I am of the view that the respondent is a man of means and has sufficient means at his disposal to maintain the petitioners. His income from all resources under no circumstances is not less than Rs. 80,000/- per month.”

[Empasis added⁵]

10. The above extract unequivocally demonstrates that the Trial Court conducted a thorough examination of the evidence and submissions advanced by both sides. It critically assessed the Respondent’s claims and found them unconvincing, particularly his assertion that he earned only Rs. 20,000/- per month as a cab driver. The Trial Court rightly noted that this claim was inconsistent with the Respondent’s overall financial dealings and lifestyle, as corroborated by independent evidence. The Trial Court found that the Respondent’s claim of being debarred from his father’s properties was unsupported by credible evidence. Instead, the evidence revealed that he continued to reside in his father’s house until 2018 and actively managed the guest house and associated businesses. This fact pointed to an attempt by the Respondent to create a facade of financial incapacity to evade his maintenance obligations. In fact, the Trial Court, held that the aspect of the Respondent being debarred from the properties of this father, was only on papers and in actuality the Respondent had been living with his father in his father’s house and managing the entire affairs of his father’s guest house. Thereafter, the Respondent’s income affidavit was also scrutinized and was found to lack transparency. The Trial Court held that in light of the evidence

⁵ Certain portions of the extracts have been obscured so as to protect the personal information of the parties.



led by parties, the Respondent, an able-bodied person with more than 25 years of professional experience would be earning more than Rs. 80,000/- instead of merely Rs. 20,000/- per month as a purported cab driver. Thus, it was held that what the Respondent could not do directly, he has sought to do indirectly.

11. The Trial Court's inference that the Respondent sought to manipulate the disclosure of his true income to deprive the Petitioners of adequate maintenance is both logical and well-reasoned. The reasoning of the Trial Court is based on established jurisprudence in matrimonial cases, where the parties do not truthfully reveal their income⁶. The courts are empowered to draw reasonable inferences from the available evidence and the overall circumstances, rather than relying solely on the self-declarations of the parties. The determination of maintenance cannot always adhere to mathematical precision. Factors such as lifestyle, social status, and unexplained discrepancies in financial disclosures often necessitate judicial estimation⁷. The Trial Court's reliance on reasonable assumptions, supported by evidence of the Respondent's professional background and lifestyle, is in line with this approach. In light of the above, this Court finds that the Trial Court rightly identified that the Respondent concealed his income.

12. Now, the question whether the quantum of maintenance awarded is adequate remains to be addressed. The Trial Court assessed the Respondent's income at Rs. 80,000/- per month, substantially higher than the disclosed income of Rs.20,000/-, yet the Petitioners have contended that

⁶ *Kiran Tomar v State of U.P.*, 2022 SCC OnLine SC 1539.

⁷ *Bharat Hegde v. Saroj Hegde*, 2007, SCC OnLine Del 622.



this figure is understated. As previously noted, there is no precise formula for arriving at an accurate figure in such cases. Courts must rely on reasonable inferences drawn from the facts, evidence, and overall circumstances, exercising judicial discretion to approximate the true income of a party.

13. In the present case, the Respondent has been found to have a significant role in his father's businesses and has demonstrably concealed his financial involvement in these ventures, as such, the Trial Court rightly made an informed assumption about the Respondent's income. However, in the opinion of this Court, the circumstances of the case and evidence on record, particularly the Respondent's continued engagement in business activities and the nature of his concealed income, suggest that the figure of Rs. 80,000/- per month is conservative. Taking into account the Respondent's extensive experience, the scale of operations that he is involved in, and the natural progression of income over time, this Court is of the view that the Respondent's actual income would reasonably be at least Rs. 1,00,000/- per month. This higher estimation reflects the Respondent's concealed earnings and his active role in managing the businesses. Consequently, the maintenance amount awarded to the Petitioners should be proportionately increased to align with this revised assessment.

14. The Court has also considered the aspect of the Respondent's obligation to provide for the educational expenses of Petitioner No. 3, who has attained the age of majority but is still pursuing higher education. It is well-settled that the attainment of majority does not release a father from his duty to provide maintenance for his children, particularly when they remain dependent for their education and basic needs. A co-ordinate bench of this



Court in the case of ***Zahir Abdullah & Anr. v. Omar Abdullah***⁸ has observed attaining the age of majority does not absolve a father from his responsibility to provide maintenance for his children and ensuring that they have secured proper education. On this aspect, it would be apposite to take note of the views expressed by the Court:

“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 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 & Ors. 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. 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.”

[Emphasis added]

15. Applying these principles to the present case, the Respondent is legally and morally obligated to support Petitioner No. 3's education. In the

⁸ Supra



opinion of this Court, a father's obligation to provide for his children, including their educational needs, extends beyond mere subsistence. The fact that Petitioner No. 3 is currently enrolled in a Bachelor of Business Administration (BBA) program indicates the need for continued financial support, as the pursuit of higher education is a legitimate and necessary step toward securing gainful employment. Depriving the said Petitioner of such support would place undue burden on his mother - Petitioner No. 1 and compromise the son's prospects for a stable future. The Respondent's duty to contribute toward the education of his son is therefore consistent with the intent of Section 125 of the Cr.P.C., which aims to prevent neglect and ensure sustenance for dependents. Consequently, the Court finds merit in the Petitioners' plea that the Respondent must continue providing maintenance for Petitioner No. 3 until he completes his education and attains financial independence.

16. In light of the above discussion, the revision petition is allowed, and the impugned order is modified as follows:

Revised Maintenance for Petitioner No. 1:

16.1 Under the impugned order, the maintenance amount of Rs. 28,000/- was subject to a 10% increase every two years. During the pendency of these proceedings, this enhancement would have already occurred over the course of time. Accordingly, the base maintenance amount for Petitioner No. 1 is revised to Rs. 32,000/- per month. However, this enhancement shall take effect from 1st January, 2022 (the month following the filing of the present revision petition). Future enhancements, as stipulated in the impugned order (10% every two years), shall apply to this revised base amount of Rs. 32,000/-. The next enhancement, which fell due on 1st January, 2024, shall



be calculated as 10% of Rs. 32,000/-. The Respondent is directed to compute arrears for the period between 1st January, 2022, and the date of this order, based on the revised amount of Rs. 32,000/- per month. These arrears shall be cleared by the Respondent in full within six months from today.

Revised Maintenance for Petitioner No. 3:

16.2 The Trial Court had directed the Respondent to pay Petitioner No. 3 an amount of Rs. 8,000/- per month, effective from 1st January, 2020. However, this payment ceased after Petitioner No. 3 attained majority on 2nd November, 2021. It is now directed that the Respondent shall pay Rs. 10,000/- per month to Petitioner No. 3, effective from 1st January, 2022 (the month following the filing of the present revision petition), until the completion of Petitioner No. 3's graduation (BBA degree from Amity University). Periodic enhancements, as stipulated in the original order (10% every two years), shall apply prospectively. The next enhancement, therefore, which fell due on 1st January, 2024, and shall be calculated on the revised base amount of Rs. 10,000/-. The Respondent is directed to compute arrears for the period between 1st January, 2022, and the date of this order, based on the revised base amount of Rs. 10,000/- per month. These arrears shall be cleared by the Respondent in full within six months from today.

17. With the above directions, the petition is disposed of.

SANJEEV NARULA, J

JANUARY 16, 2025/nk