



2025:DHC:5645-DB



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 09.07.2025

+ MAT.APP.(F.C.) 243/2025

NITIN JAIN

.....Appellant

Through: Dr. M.k.Gahlaut, Adv.(VC)

versus

SMT SNEH LATA GOEL

.....Respondent

Through: *Nemo.*

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

RENU BHATNAGAR, J. (Oral)

CM APPL. 39820/2025 (Exemption)

1. Allowed, subject to all just exceptions.

MAT.APP.(F.C.) 243/2025 & CM APPL. 39821/2025

2. The present appeal has been filed by the appellant, under Section 19(1)(4) of the Family Courts Act, 1984, against the Order dated 28.04.2025 passed by the learned Judge, Family Court-02, West District, Tis Hazari Courts, Delhi (herein after referred to as the, 'Family Court') in HMA No. 150/2022, titled ***Sneh Lata Goel v. Nitin Jain***, whereby, the learned Family Court allowed the application filed by the respondent herein under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as the, 'HMA') and directed the



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appellant-husband to pay a monthly sum of Rs. 12,500/- (Rs. 7,500/- for the minor child and Rs. 5,000/- for the respondent-wife) as *interim* maintenance.

3. The brief facts in which the present appeal arises pertain to the marriage between the parties, which was solemnized on 28.06.2017 according to the Hindu rites and ceremonies in Delhi. Out of the said wedlock, a male child was born on 26.05.2019, who is currently in the care and custody of the respondent-wife. Thereafter, owing to several differences and acrimonies between the parties, they started residing separately from 14.06.2021.

4. In the year 2021, the appellant filed a petition under Section 9 of the HMA, being HMA No. 1534/2021, seeking the relief of restitution of conjugal rights, which was allowed by the learned Family Court on 26.04.2024. It is pertinent to state here that the said order, directing the respondent to join the company of the appellant, has not been complied with and has been appealed against, as the same was an *ex-parte* direction.

5. Subsequently, the respondent-wife filed a divorce petition under Section 13(1) (ia) of the HMA seeking the dissolution of the marriage. In the said divorce petition, she also preferred an application under Section 24 of the HMA, seeking the grant of *interim* maintenance to the tune of Rs. 25,000/- per month and Rs.10,000/- towards litigation expenses.

6. The learned Family Court, *vide* the Impugned Order, allowed the aforesaid application filed by the respondent-wife and directed the



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appellant herein to pay a sum of Rs.12,500/- per month as *interim* maintenance to the respondent-wife and the minor child, from the date of filing of the application till the disposal of the divorce petition filed by the respondent herein.

7. Being aggrieved by the above directions, the appellant has approached this Court by way of the present appeal, *inter alia*, seeking the setting aside of the aforesaid Impugned Order.

8. The learned counsel for the appellant submits that the learned Family Court has erred in adjudicating the application filed by the respondent-wife under Section 24 of the HMA, as it has failed to properly appreciate the facts and circumstances of the present case. He submits that the award of *interim* maintenance is erroneous, as the respondent-wife is well capable of maintaining herself as well as the minor child. He further contends that she has deliberately not filed her bank statements for the past three years, as mandated by the Judgments of the Supreme Court as well as of this Court. He submits that, therefore, the direction granting maintenance to the respondent-wife from the date of filing of the application is arbitrary, unjust and untenable in the eyes of law.

9. He further contends that the learned Family Court failed to appreciate the fact that it was the respondent-wife, an educated and well-qualified woman, who had deserted the appellant without any just cause and had also deliberately not appeared before the learned Family Court, despite being served with the notice under Section 9 of the HMA, to contest the proceedings. He also submits that, in view of



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her absence, the learned Family Court, in its Order dated 26.04.2024, categorically observed that the respondent had withdrawn from the society of the appellant without any reasonable excuse.

10. The learned counsel for the appellant also submits that the learned Family Court failed to take into consideration the bank statements of the respondent, which disclose entries of deposits of various amounts in the names of Mr. Qadir Ahmed and Mr. Prem Prakash. In addition to the aforesaid, he also asserts that the respondent made a payment of Rs.1,00,000/- to her mother, Smt. Narayani Devi, on 09.04.2021.

11. In addition to the aforesaid, he also contends that the learned Family Court has failed to consider the bank deposits in the respondent-wife's account in the sum of Rs.49,000/- each, made on 23.03.2021 and 03.04.2021 by her father and her brother, respectively. He, therefore, submits that the respondent-wife has wilfully concealed her income and is thus not entitled to the grant of *interim* maintenance as awarded in the Impugned Order.

12. Insofar as the maintenance granted towards the minor child is concerned, the learned counsel for the appellant submits that the respondent-wife did not place on record any cogent, credible or reliable evidence to establish the actual expenses incurred by her for the minor child. As such, the finding of the learned Family Court awarding maintenance to the tune of Rs. 7,500/- per month for the minor child is again unjust and erroneous.



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13. It is also the submission of the learned counsel for the appellant that there is no substantial material on record to prove that the appellant is earning a hefty sum of Rs. 50,000/- per month, being a shop owner operating from the ground floor of his residence. Whereas, it is the respondent who is promoting brands on her social media accounts and also running YouTube channels, thereby earning a substantial income from such activities. It is, therefore, the plea of the appellant herein that the respondent is concealing her profession as well as her actual sources of income.

14. In view of the foregoing submissions, it is the case of the appellant-husband before us that the learned Family Court has failed to apply the provision of Section 24 of the HMA in its true spirit and intent. Therefore, it is prayed that the Impugned Order is liable to be set aside.

15. We have considered the submissions of the learned counsel for the appellant; however, we do not find any merit in the same.

16. Before delving into the merits of the present case, it is pertinent to state the true objective of the provision under Section 24 of the HMA. The enactment of maintenance laws aims to bring both parties on an equal footing while contesting the divorce proceedings and to enable the dependent spouse to obtain the requisite financial support from the earning spouse to maintain herself and the children and to live a life of dignity and lifestyle they were accustomed to when the spouses were living together. Therefore, Section 24 of the HMA, in



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particular, acts as an *interim* recourse and serves as a measure of social justice.

17. In the present case, the relationship between the parties is duly admitted. On 22.05.2023, the respondent-wife filed her income affidavit before the learned Family Court. A bare perusal of the same reveals that she claims to be incurring approximately Rs.25,000/- per month towards the maintenance of the minor child, which, *inter alia*, includes Rs. 12,735/- per month towards the school fees, Rs. 1,365/- per month towards the meals, Rs. 10,000/- per month towards the medical expenses, and Rs. 615/- per month towards his books and stationery, all of which are solely borne by the respondent-wife.

18. The learned Family Court, in the Impugned Order, has mentioned that the respondent is an orthopedically handicapped individual with 40% disability. In such circumstances, where a specially abled wife has been solely incurring expenses towards the minor child, we are unable to draw an adverse inference against the respondent-wife.

19. It is, however, the case of the appellant before us that the respondent-wife is an earning woman, well capable of sustaining herself and bearing the expenses of the minor child. However, in this regard, it is observed that no cogent proof of her alleged earnings through her social media accounts has been placed on record by the appellant, either before the learned Family Court or even before this Court.



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20. Insofar as the bank account statements of the respondent-wife are concerned, it has been alleged by the appellant herein that there are certain deposits in her account which were not taken into consideration by the learned Family Court. However, the appellant has not placed the said bank account statements of the respondent-wife before this Court. In that regard, before the learned Family Court, the respondent-wife had stated and explained that the payments received in her bank account were made by her father and brother.

21. Furthermore, the learned Family Court duly records that it is the claim of the respondent-wife in her income affidavit that the appellant has a monthly income of Rs. 50,000/- from the shop, apart from Rs. 15,000/- from her video shoots, etc., for which no proof has been placed on record. Similarly, the appellant, in his income affidavit, has claimed to be earning Rs. 16,000/- per month by doing freelance video shoots; however he has not placed anything before this Court.

22. After a thorough perusal of the income affidavits of the parties herein, the learned Family Court found that several allegations had been made regarding the real income of the spouse by each party against the other, and thus held that the same is a matter of trial. Undoubtedly, in maintenance proceedings, the parties are likely to conceal their actual income, and the contentions of the parties are subject to evidence being led on the merits of the case.

23. In the backdrop of the peculiar facts and circumstances of the present case, and considering the fact that the minor child is a school-going child studying at S. D. Public School, and also keeping in view



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the disability of the wife to the extent of 40% as per the medical documents placed before the learned Family Court, we do not find that the award of *interim* maintenance to the tune of Rs. 5,000/- to the respondent-wife or Rs. 7500/- to the minor child is on the excessive side.

24. Insofar as the decree under Section 9 of the HMA, passed in favour of the appellant is concerned, it is a settled position of law that the existence of such a decree under Section 9 of the HMA is no bar to the grant of maintenance to the wife and the minor child, if they are unable to maintain themselves. The issue of whether the wife has withdrawn from the society of the husband without reasonable cause is to be ascertained on the merits. Reliance in this regard can be placed upon the decision rendered by a Division Bench of the Punjab and Haryana High Court in **Sanjay Kumar v. Bhateri**, 2013 SCC OnLine P&H 6979, wherein it was held as follows:

*“.....Even otherwise, the mere grant of a decree for restitution of conjugal rights in favour of a husband cannot create a legal bar to claim maintenance by a destitute wife who has no income to maintain herself. We would hasten to add that disobedience of a decree for restitution of conjugal rights is not a ground in terms of section 24 of the HMA to deny claim for maintenance to a party who otherwise satisfy the ingredients of the said provision.
...”*

25. In view of the aforesaid position of law, we find that a decree under Section 9 of the HMA in favour of the appellant will also not come to any aid to the appellant. In the present scenario, a decree for



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restitution of conjugal rights, that too an *ex-parte* Order, cannot create a legal bar to the grant of maintenance under Section 24 of the HMA to a destitute wife and a minor child.

26. Furthermore, claims such as the wife being educated and thus likely to support herself are immaterial. In matrimonial proceedings, the Court is duty-bound to consider various factors, such as the financial and social status of the parties, the reasonable needs of the wife and dependent children, reasonable litigation costs for a non-working wife, etc, as laid down in the comprehensive list of factors by the Supreme Court in the decision of ***Rajnish v. Neha***, (2021) 2 SCC 324.

27. Moreover, as held by the Supreme Court in ***Shailja v. Khobbanna*** (2018) 12 SCC 199, the fact that the wife is capable of earning and whether she is actually earning are two distinct aspects. Merely because the wife is capable of earning is not a sufficient ground to reduce the maintenance awarded by the learned Family Court. In the present case, the appellant has failed to place on record any document showing that the respondent-wife is actually earning.

28. The plea of the appellant that direction to pass arrears of maintenance from the date of filing of the application by the respondent could not have been passed, we may only refer to the Judgment of the Supreme Court in ***Rajesh v. Neha*** (supra) to reject the same.



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29. In view of the aforesaid discussion on facts and law, we do not find any reason to interfere with the Impugned Order passed by the learned Family Court.

30. Having found no merit in the appeal, the same, along with the pending application(s), is accordingly dismissed.

31. However, we make it clear that observations made hereinabove shall not affect the merits of the case pending before the learned Family Court.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 9, 2025

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Click here to check corrigendum, if any