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

+ CRL.REV.P. 1261/2019

RANJNA SHARMA & ORS

.....Petitioners

Through: Mr. D. V. Khatri and Mr. Harshad
Gupta, Advocates along with P-1.

versus

VINEET SHARMA

.....Respondent

Through: *Appearance not given.*

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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24.04.2025

1. The present revision petition under Section 397 of the Code of Criminal Procedure, 1973¹ read with Section 19(4) of the Family Courts Act, 1984, assails the order dated 23rd August, 2019² passed by the Family Court, West District, Tis Hazari Courts, Delhi, in Maintenance Petition No. 39/2018 titled as '***Smt. Ranjna Sharma & Ors. v. Vineet Sharma***'.

2. The factual background, as narrated in the present petition, is as follows:

2.1 The marriage between Petitioner No. 1 and the Respondent was solemnized on 09th March, 2008. Two daughters, Petitioners No. 2 and 3, were born from this marriage. At the time of filing the petition, the daughters were aged 10 years and 5 years respectively; presently, they are

¹ "Cr.P.C."

² "Impugned order"

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16 and 11 years old. The minor daughters remain in the care and custody of their mother, Petitioner No. 1.

2.2 Owing to temperamental differences and other reasons, Petitioner No. 1 and the Respondent separated on 10th September, 2016. Since then, the Petitioners have been living independently from the Respondent.

2.3 In March, 2018, Petitioner No. 1 instituted proceedings under Section 125 Cr.P.C. before the Family Court, West, Tis Hazari Courts, seeking maintenance for herself and her daughters. In the said proceedings, on an application seeking interim maintenance, the Family Court, by the impugned order dated 23rd August, 2019, assessed the financial positions of both parties and, on a *prima facie* basis, directed the Respondent to pay interim maintenance of INR 30,000/- per month towards the upkeep of Petitioners No. 2 and 3, with effect from the date of filing of the petition until final disposal. No interim maintenance was awarded in favour of Petitioner No. 1.

2.4 Aggrieved by the quantum of interim maintenance awarded, which they find grossly inadequate to meet the reasonable needs of the minor daughters, the Petitioners have preferred the present revision petition seeking an enhancement of the maintenance amount to INR 1,00,000/- per month.

3. Counsel for the Petitioners contends that, notwithstanding her professional qualifications, Petitioner No. 1 has been compelled to forego employment opportunities to shoulder the entire responsibility of raising the two minor daughters. It is submitted that the Petitioners presently reside in a modest one-bedroom accommodation in Dilshad Garden, and that Petitioner No. 1 has consciously prioritised the well-being, education, and safety of the children over her own career prospects. In such circumstances, it is urged

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that the refusal to award maintenance to Petitioner No. 1 is manifestly unjust and contrary to settled principles. Having regard to the Respondent's financial standing and his legal obligation to support the Petitioners, counsel prays that the quantum of maintenance be suitably enhanced.

4. Counsel for the Respondent, on the other hand, submits that the list of expenses filed by Petitioner No. 1 alongside her income affidavit demonstrates that she is financially self-sufficient. He points out that Petitioner No. 1 has been maintaining a personal driver at a salary of ₹10,000 per month and has enrolled in a gym with a recurring fee of ₹1,500 per month – expenditures inconsistent with the claim of financial distress. It is further contended that, being a well-qualified professional, Petitioner No. 1 is fully capable of gainful employment and cannot, therefore, seek maintenance on the plea of self-imposed unemployment.

5. The Counsel further emphasises that the Respondent, while meeting his own financial obligations, has been regularly paying ₹30,000 per month towards the maintenance of the two minor daughters, in addition to depositing ₹12,500 each under the Sukanya Samriddhi Yojana schemes in the minor daughters names. In these circumstances, he submits that the impugned decision to deny maintenance to Petitioner No. 1 is well-reasoned and draws precedents of *Mamta Jaiswal vs. Rajesh Jaiswal*³, *Damanpreet Kaur vs. Indermeet Juneja & Anr.*⁴ *Sanjay Bhardwaj vs. State & Anr.*⁵, and *Rupali Gupta vs. Rajat Gupta*⁶.

6. The Court has carefully considered the rival submissions, and the

³ 2000 SCC OnLine MP 580

⁴ Crl. Rev. P. 344/2011, judgment dated 14.05.2012 passed by the High Court of Delhi.

⁵ 2010 SCC OnLine Del 2912

⁶ 2016 SCC OnLine Del 5009

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material placed on record. At the outset, it must be noted that the impugned order pertains only to the grant of *interim maintenance*, pending final adjudication of the substantive petition under Section 125 Cr.P.C., which remains under consideration before the Family Court. At the stage of interim maintenance, the Court is required to undertake only a *prima facie* evaluation based on the disclosures made by the parties in their income affidavits, without entering into an elaborate inquiry. Thus, both parties shall have full opportunity to lead evidence in support of their respective claims, which the Trial Court will assess, at the appropriate stage while determining final maintenance.

7. As regards the interim maintenance awarded to Petitioners No. 2 and 3, this Court finds no infirmity in the Trial Court's determination. In view of the Respondent's financial capacity. In view of Respondent's financial capacity, as reflected in the income affidavit filed before the Family Court, the award of INR 30,000/- per month towards the maintenance of the two minor daughters appears reasonable and commensurate with the standard of living that the children would be entitled to enjoy. No case for interference with that part of the impugned order is made out.

8. However, with respect to the denial of maintenance to Petitioner No. 1, this Court is of the opinion that her role as the sole caregiver for two minor daughters, both of whom were at a tender age when proceedings were initiated, cannot be brushed aside. The very essence of Section 125 Cr.P.C. lies in providing sustenance to those who are otherwise vulnerable and dependent. The fact that Petitioner No. 1 has foregone her career prospects in order to care for her children cannot be a ground to deny her maintenance.

Even if she was previously employed, the present circumstances, where she

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bears the primary responsibility of nurturing two school-going children, must be taken into account. In this context, the observations of the Supreme Court in ***Shamima Farooqui v. Shahid Khan***,⁷ are instructive. The Supreme Court observed that a healthy, able-bodied husband is legally obligated to provide maintenance to his wife especially when the custody of the children is with the wife. The relevant extracts of the said decision are as follows:

*“14....It can never be forgotten that the inherent and fundamental principle behind Section 125 CrPC is for amelioration of the financial state of affairs as well as mental agony and anguish that a woman suffers when she is compelled to leave her matrimonial home. The statute commands that there have to be some acceptable arrangements so that she can sustain herself. The principle of sustenance gets more heightened when the children are with her. Be it clarified that sustenance does not mean and can never allow to mean a mere survival. A woman, who is constrained to leave the marital home, should not be allowed to feel that she has fallen from grace and move hither and thither arranging for sustenance. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of her husband. And that is where the status and strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one. As long as the wife is held entitled to grant of maintenance within the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity as she would have lived in her matrimonial home. She cannot be compelled to become a destitute or a beggar. There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite having sufficient means neglects or refuses to maintain the wife. Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law. **If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right.***

...

16. Grant of maintenance to wife has been perceived as a measure

⁷ (2015) 5 SCC 705

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of social justice by this Court. In Chaturbhuj v. Sita Bai [(2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] , it has been ruled that : (SCC p. 320, para 6)

“6. ... Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in Capt. Ramesh Chander Kaushal v. Veena Kaushal [(1978) 4 SCC 70 : 1978 SCC (Cri) 508] falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat [(2005) 3 SCC 636 : 2005 SCC (Cri) 787] ”

[Emphasis supplied]

9. The Court must also note the legal position reiterated in **Nidhi Sudhan v. Manish Kumar Khanna**⁸ where the Division Bench of this Court held that the obligation of a husband to maintain his wife stands on a higher pedestal than the expectation from a wife to be self-sufficient, particularly under beneficial legislations such as Section 125 of Cr.P.C., which are meant to secure social justice for women and children keeping in view the underlying principle of Article 15(3) of the Constitution of India. The mere fact that a wife is qualified to earn does not absolve the husband of his duty to provide maintenance, especially when she is primarily responsible for the care and upbringing of the children.

10. In light of the foregoing, the Court is of the considered view that the interests of justice warrant a limited modification of the impugned order. The role discharged by Petitioner No. 1 in single-handedly caring for two minor daughters, coupled with her evident financial dependence,

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necessitates that she be awarded interim support to preserve her dignity and sustenance. The denial of maintenance to Petitioner No. 1, despite her evident responsibilities and the Respondent's admitted earning capacity, would defeat the statutory object of Section 125 Cr.P.C.

11. Accordingly, the impugned order is modified to the extent that in addition to the maintenance awarded to Petitioners No. 2 and 3, the Respondent shall pay an additional maintenance of INR 15,000/- per month to Petitioner No. 1 from the date of filing of the petition before the Trial Court till the final decision is passed in the application pending before the Trial Court.

12. The maintenance amounts shall be paid on or before the 10th day of each succeeding month, in addition to the amounts directed under the impugned order. All arrears due to Petitioner No. 1 under this order shall be cleared within a period of three months from today.

13. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

APRIL 24, 2025

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⁸ 2023 SCC OnLine Del 7652

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