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

\+ CRL.REV.P. 896/2022

JAIPAL .....Petitioner

Through: Mr. Shiv Nath Sawhney and Ms, Manya Sharma, Advocates.

versus

SONIKA CHOUDHARY & ANR. .....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **08.10.2025**

CRL.M.A. 27470/2025 *(seeking early hearing)*

1. For the grounds and reasons stated in the application, the same is allowed and the main petition is taken on board today itself.

2. The application stands disposed of.

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3. The present revision petition under Section 397 read with Section 482 of the Code of Criminal Procedure, 1973[1] assails the order dated 31st May, 2022 passed by Family Court, PHC, New Delhi. By the said order, interim maintenance of INR 20,000/- per month has been awarded in favour of the Respondents. In addition, the Petitioner has been directed to bear the educational expenses of Respondent No. 2, including tuition fees, annual fees, development charges, and any other amounts demanded by the school.

4. The Petitioner (husband) married Respondent No. 1 (wife) on 23rd November, 2016 as per Hindu rites and customs. From this marriage, a child (Respondent No. 2) was born on 24th March, 2018. Following marital discord, the parties have been living separately since February 2021, and the minor child continues to remain in the custody of Respondent No. 1.

5. Respondent No. 1 instituted the petition under Section 125 of Cr.P.C. seeking maintenance for herself and the minor child, along with an application for interim maintenance. Upon consideration of the pleadings and the income and expenditure affidavits filed by the parties, the Family Court awarded interim maintenance of INR 20,000 per month in favour of the Respondents and directed the Petitioner to bear the school expenses of Respondent No. 2, including tuition, annual, development, transport, and other charges. Relevant findings of the Faily Court are as follows:

> *"3. I have considered the submissions and I have perused the record. Ld. LAC for the petitioners has filed written submissions.*
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> *4. Petitioner has placed on record photographs of the respondent in support of the assertions that he leads a luxurious life. There is no specific denial in the written statement regarding use of branded products and out station trips. The total credit in the Axis bank account of the respondent for the period from 01.01.2021 to 01.01.2022 is ₹ 12,83,189.28/- and the total debit is ₹ 12,82,326.08/-.*
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> *5. It is stated in para 27 of the petition that the respondent is having a big house in the village which has been given on rent and he is getting ₹ 45,000/- per month. In the reply, the amount of rent is not specifically denied. However, it is contended that father of the respondent is the owner of the house and the house has been given on rent for the benefit of the daughter of the Masi of the respondent as his Mausa has expired. In the petition, it is stated that the respondent is having agricultural income of ₹ 60,000/- per month. In reply, it is stated that the share of the father of the respondent is 6 Acres and the yearly income is around ₹ 1,40,000/-. 6. It is clear that the respondent is having other sources of income apart from the salary. The loan taken by him and the installments being paid by him cannot be considered at the time of assessing his income. Taking into*

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[1] "Cr.P.C."

consideration, the facts mentioned above the salary of the respondent appears to be not less than ₹ 60,000/- per month. He states that he is paying ₹ 4500/- per month towards the school fee and other miscellaneous expenses of the child. Applying the directions given by Hon'ble Delhi High Court in Annurita Vohra's interim maintenance of ₹ 20,000/- per month is awarded to the petitioners from the date of the filing of the petition till further orders. Apart from this, the respondent shall continue to pay the school fee of the child which will include tuition fee, annual fee, development charges, transport charges and any other demand raised by the school. The amount be deposited in the bank account of the petitioner no. 1 on or before 10th day of each calender month. The arrears of maintenance be cleared by paying ₹ 5000/- per month along with the regular maintenance till the arrears are cleared. The petitioners are represented by NDDLSA, however, some litigation expenses need to be awarded as the petitioner no. 1 has to come to the court and take other steps to pursue the matter. Accordingly, respondent is directed to pay ₹ 5000/- towards litigation expenses. The litigation expenses be paid along with the first installment of the regular maintenance and arrears.

7. List on 01.08.2022 for framing of issues."

6. Counsel for the Petitioner challenges the impugned order on multiple grounds, contending that the award of interim maintenance suffers from procedural irregularity and lacks factual foundation. The submissions are summarised as follows:

6.1. The impugned order has been passed without affording the Petitioner an effective opportunity of hearing. The Family Court, proceeded solely on the Respondent's assertions regarding the Petitioner's income and lifestyle, without any corroborative material. Such *ex parte* findings, based on presumptions rather than evidence, are unsustainable in law and liable to be set aside.

6.2. The Petitioner is employed as an LDC with the Government of India and earns a gross monthly salary of INR 39,824/-. He is the sole earning member of the family and is responsible for the care and maintenance of his aged parents. The maintenance awarded, is arbitrary and excessive, having been computed on speculative assumptions of undisclosed income unsupported by record.

6.3. The Petitioner resides in rented accommodation at a monthly rent of INR 8,000/-. After deduction of maintenance amount, statutory liabilities and INR 4,500/- per month towards the child's school expenses, the Petitioner is left with an amount insufficient to meet his own subsistence needs. The order, therefore, imposes an unworkable financial burden disproportionate to his proven income.

6.4. Respondent No. 1 did not produce her bank statements along with the affidavit of income, assets, and liabilities, thereby withholding material particulars essential for assessing her financial capacity. She is well-educated and demonstrably capable of gainful employment, yet has chosen to remain unemployed without showing any incapacity to work. In these circumstances, the grant of INR 20,000/- per month interim maintenance, in addition to the full educational expenses of the child, lacks any sound legal or factual foundation.

7. The Court has considered the aforenoted contentions. As regards the impugned order being *ex parte,* it is observed that although opportunity of oral hearing may not have been given to the Petitioner on the interim application, yet the record reflects that the Petitioner had already filed both his affidavit of income and his reply. The impugned order records and considers these filings. It therefore cannot be treated as *ex parte* in the legal sense, as the requirements of procedural fairness were substantially met.

8. Turning to the merits, the Court finds that the Family Court applied a reasoned approach in assessing interim maintenance. Its findings were drawn from the Petitioner's own bank statements, which disclosed

substantial credit entries, and other sources of income, including rent from village property and agricultural proceeds. These findings are supported by material on record and cannot be characterized as speculative. The fixation of interim maintenance at INR 20,000/- per month, along with the direction to pay the minor child's school expenses, represents a measured exercise of discretion consistent with the facts on record.

9. The approach adopted by the Family Court also accords with established legal principles governing determination of interim maintenance. Where income is not fully disclosed or documentary proof is incomplete, courts are not expected to adopt a purely arithmetical method but may apply reasonable inference based on the overall standard of living, lifestyle, and surrounding circumstances of the parties.[2] The underlying rationale is that where direct proof of income is unavailable, judicial estimation becomes necessary.

10. The contention that Respondent No. 1 is well-qualified and capable of employment, and therefore disentitled to maintenance, does not merit acceptance at the interim stage. The judicial precedents hold that an able-bodied husband cannot evade his statutory duty to maintain his wife and child by merely asserting her employability or his own limited means. [3] The obligation under Section 125 of Cr.P.C. is not contingent on the wife's employment status but on whether she has sufficient independent income to maintain herself and the child in a manner commensurate with their status.

11. Respondent No. 1 bears sole responsibility for the care and upbringing of a young child, whose needs are continuous and multifaceted.

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[2] ***Bharat Hegde v. Saroj Hegde*** 2007 SCC OnLine 622; ***Rajnesh v. Neha and Anr.*** (2012) 2 SCC 324.
[3] ***Shamima Farooqui v. Shahid Khan*** (2015) 5 SCC 705; ***Anju Garg v. Deepak Kumar Garg*** 2022 SCC

While some mothers may be able to balance employment alongside childcare, whether such balance is realistically feasible depends on several factors, including the child's age, the availability of family support, and the overall financial circumstances. The Court does not expect economic self-sufficiency to come at the cost of a child's welfare. The financial support awarded to the mother is, in substance, a measure to safeguard the child's well-being, ensuring continuity in education, nutrition, and daily care. Viewed thus, the Family Court rightly treated the sustenance of the mother and the welfare of the child as a single, indivisible consideration under Section 125 Cr.P.C.

12. The Family Court rightly relied upon the decision in ***Annurita Vohra v. Sandeep Vohra,*** [4] wherein this Court laid down that maintenance should be fixed by equitable apportionment of the husband's income among all dependents, ensuring each member a fair share consistent with their needs and social position. The principle of proportional division rather than rigid percentage allocation ensures flexibility and fairness, reflecting both the economic realities of the parties and the welfare objective underlying Section 125 of Cr.P.C.

13. Accordingly, the interim maintenance awarded in the impugned order strikes a fair balance between the Petitioner's assessed earning capacity and the Respondents' basic requirements, securing continuity of the child's education without imposing any undue burden on the Petitioner.

14. It bears reiteration that an order of interim maintenance is a provisional measure designed to safeguard basic sustenance during the

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OnLine SC 1314.

[4] 2004 SCC OnLine Del 192.

pendency of proceedings. It neither determines the parties' ultimate rights nor precludes a fresh evaluation upon full evidence at the final stage. Viewed thus, the impugned order discloses no perversity or legal infirmity warranting interference under the limited revisional jurisdiction of this Court.

15. For these reasons, the petition stands dismissed, along with all pending applications.

SANJEEV NARULA, J

OCTOBER 8, 2025
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