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

\+ CRL.REV.P.(MAT.) 361/2025, CRL.M.A. 23084/2025, CRL.M.A. 23085/2025

RINKU KUMARI .....Petitioner

Through: Mr. Umesh Sinha and Ms. Himani Chhabra, Advocates.

versus

RAJESH KUMAR MEHTO .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 07.08.2025

1. This revision petition instituted under Section 442 read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023[1] (corresponding to Section 401 read with Section 482 of the Code of Criminal Procedure, 1973[2]) is directed against order dated 7th March, 2025, passed by Principal Judge, Family Court, Tis Hazari Courts, Delhi in MT Case No. 103/2020 titled ***Rinku Kumari v. Rajesh Kumar Mehto***. By the impugned order, the maintenance awarded to the Petitioner was enhanced from INR 7,000/- to INR 9,500/- per month, payable from the date of filing of the petition (i.e., 27th February, 2020) and to continue for as long as she remains legally entitled to receive it.

2. The Petitioner was married to the Respondent on 25th April, 2008.

[1] "BNSS"
[2] "CrPC"

The parties have no children from this marriage. As per record, they separated on 7th June, 2009 and have been engaged in litigation for approximately 16 years. The Respondent is employed as a postman in the Postal Department, having secured the job on compassionate grounds following the demise of his father.

3. On a petition instituted by the Respondent under Section 125 of CrPC, the Metropolitan Magistrate, by order dated 8th August, 2013, awarded monthly maintenance of INR 3,500/- to the Petitioner. This order was then modified by the Sessions Court, in revision, by judgment dated 13th August, 2014, enhancing the monthly maintenance to INR 7,000/-.

4. Subsequently, on 27th February, 2020, the Petitioner preferred an application under Section 127 of CrPC seeking enhancement of the maintenance. The said application has been adjudicated by the impugned order, enhancing the maintenance to INR 9,500/-.

5. The Petitioner, nonetheless, is aggrieved by the limited enhancement and contends that the increase awarded is disproportionate to the substantial rise in the income of the Respondent over the years. It is urged that the Family Court failed to factor in the impact of inflation, the escalated cost of living, and the standard of living of the husband. According to the Petitioner, the reasoning in the impugned order is coloured more by sentiment than by an application of legal principles and binding precedents.

6. The Petitioner argues that observations made in paragraph 20 of the impugned order, demonstrate that the Family Court appears to have been swayed by moral and compassionate considerations, noting the demise of the Respondent's father and the alleged financial responsibility towards his family. It is submitted that such considerations are irrelevant in law,

particularly when the Respondent has no enforceable legal duty to maintain his adult brothers or unmarried sister. The Petitioner asserts that reliance on these extraneous factors artificially constrained the award of maintenance.

7. It is further contended that in 2014, when the Sessions Court enhanced the maintenance from INR 3,500/- to INR 7,000/-, the Respondent's net monthly income was approximately INR 23,000/- to INR 24,000/-. Over the intervening 11 years, his income has risen nearly threefold to INR 64,319/- after statutory deductions. Yet, the enhancement in the maintenance granted is only INR 2,500/-, which neither reflects the substantial increase in his earning capacity nor accounts for the steady erosion of purchasing power due to inflation.

8. The Court has considered the aforesaid contentions. The impugned order, in the Court's opinion, is well reasoned and takes into account several relevant factors in determining the enhancement. The relevant portion of the impugned order is reproduced below:

> *"5. In this petition, Ms. Rinku states that following the 7th Pay Commission, respondent's salary was increased, and he is now earning more than Rs. 60,000/- per month after all deductions; that he has no liability, except to maintain her; that she is unable to make ends meet on the meagre monthly maintenance of Rs. 7,000/- owing to exponential rise in prices of essential commodities; that respondent's mother receives monthly pension and also earns rental income from her three storeyed house. On these averments, she seeks enhancement of monthly maintenance to Rs. 25,000/-.*
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> *6. Respondent in his reply states that Ms. Rinku completed her Graduation in year 2007, that is, even before her marriage with him; that she imparts tuitions to students/ children of her locality, fetching her monthly income of Rs. 15,000/- to Rs. 20,000/-, besides the monthly maintenance of Rs. 7,000/-; that his own take-home monthly salary is only Rs. 7,385/-; that he is the only earning member of his family; that his widowed mother, unmarried sister and two unmarried brothers (Sonu and Monu) are dependent on him; that his sister is of marriageable age, and he alone would have to shoulder responsibility of his sister's marriage; that his siblings are students and he has to bear their expenses; that his mother is a*

heart patient requiring significant medical expenses. Denying other averments, he seeks dismissal of the petition under section 127 of CrPC.

7. In her replication, petitioner Ms. Rinku has reiterated her averments as set out in the petition and refuted those of the respondent as set out in his reply. She states that respondent's siblings arc major and not dependent on him for their livelihood, and that his mother has an independent source of income from the pension of her late husband.

8. Now to income affidavits of both the parties. Petitioner Ms. Rinku in her income affidavit dt. 31.07 .2023 states as follows:

- *As regards herself, she states that she is aged 36 years and has a BA degree; that she stays with her father; that owing to her brother's marriage she is searching for a rented accommodation for herself; that her monthly expense is about Rs. 25,000/-; that she has no dependents on her; that she suffers from piles and other stomach related ailments; that being a housewife she has no source of income; that she has no assets to her name; that she has no financial liability on her; that she is not an income tax assessee.*
- *As regards the respondent, she states that he is a Postman with gross monthly salary of Rs. 63,608/- in May 2022.*

9. Respondent in his income affidavit dt. 09.04.2024 states as follows:

- *As regards himself, he states that he is aged 40 years and is class 10th pass; that he resides at his parental house; that he works as postman and earns Rs. 34,742/- every month; that his monthly expense is about Rs. 34,742/-; that his widowed mother (55 years), two younger brothers (28 years and 26 years) and unmarried sister (30 years) arc dependent on him; that his widowed mother receives pension of Rs. 12,500/- per month; that his mother suffers from heart ailment, irregular blood pressure, thyroid imbalance and undergoes regular medication; that his mother has a stent in her heart; that his brother Sonu experiences seizures and undergoes medication; that he incurs monthly expense of Rs. 27,000/- on his dependent family members; that he is not an income tax assessee; that he has no assets to his name, that he has no financial liabilities on him.*
- *As regards the petitioner he states that she earns more than Rs. 15,000/- per month out of tuitions to students; that she is in a job in a reputed company fetching her monthly salary of Rs. 20,000/-; that thus her total monthly income is over Rs. 35, 000/-; that she resides at her own house.*

10. Now to bank statement of the parties. Petitioner Ms. Rinku has a bank account with State Bank of India, Friends Colony, Delhi - 28. Her bank statement for the period from 01.01.2019 till 08.04.2021 is on record. There are no significant entries in her bank account.

11. Respondent has no bank account, as per his averments m his income affidavit. As per him, he has an IPPB Mobile App issued by Postal Department wherein his salary is credited.

12. *Court findings arc as asunder.*

13. *To begin with, I find nothing on record in support of respondent's averments that petitioner Ms. Rinku imparts tuitions to students/ children of her locality fetching her monthly income in the range of Rs. 15,000/- to Rs. 20,000/-. In his income affidavit, respondent averred that petitioner is in a job in a reputed company on monthly salary of Rs. 20,000/-. However, the record is bereft of any material to suggest even remotely that she works in a company. That apart, this averment about petitioner working in a company is as vague as it can be. No particulars of the said reputed company has been set out anywhere. The location of her workplace or her office address is not mentioned. Thus, it appears that respondent's averments on this count are without substance.*

14. *Respondent's mother is earning Rs. 12,500/- as pension every month, as stated by respondent in his income affidavit. Thus, I think with this amount of pension his mother can very well support herself.*

15. *Next, for the sake of convenience, respondent's salary slip of March 2024 is as follows:*

EARNINGS	DEDUCTIONS
Basic Pay - Rs. 38,600	NPS Contribution - Rs. 5,790
Dearness Allowance (DA) - Rs. 19,300	Income Tax - Rs. 3353
DA on TpA - Rs. 1,800	PLI Premium - Rs. 7668
House Rent Allowance (HRA) – Rs. 10,422	CGEGIS Saving Fund - Rs. 30
Transport Allowance - Rs. 3,600	CGHS - Rs. 250
Cycle Allowance – Rs. 180	Union/Association Subscription – Rs. 60
	Welfare Fund Contribution - Rs. 100
	Postal Co-operative Soc. - Rs. 5,667
	Postal Co-op Bank Rec. - Rs. 16,242
Gross Pay - Rs. 73,902[2]	Total Deductions - Rs. 39,160
Net Pay – Rs. 34,742	

16. *Now, out of respondent's monthly salary there are several deductions that arc not mandatory. I find from his pay slip that only the following deductions arc mandatory: (a) NPS Contribution, (b) Deductions towards Income Tax, (c) Deductions towards CGEGIS Saving Fund, (d) Deductions towards CGHS, (c) Deductions towards Union/ Association Subscription, and (f) Wei fare Fund Contribution. Rest of the deductions are not mandatory. Under the law, deductions that are not mandatory cannot be considered in assessing respondent's income for the purpose of award of maintenance {see* Jasbir Kaur Sehgal v. Distt. Judge, Dehradun & Ors.*, (1997) 7 SCC 7 and* Dr. Kulbhushan Kunwar v. Raj Kumari*, AIR 1971 SC 234}. Thus, it is this court's view that for award of maintenance*

respondent's income is to be assessed at Rs. 64,319/- (Rs. 73,902, less Rs. 5,790, less Rs. 3,353, less Rs. 30, less Rs. 250, less Rs. 60, less Rs. 100).

17. Now, the respondent contends that his unmarried sister (30 years) and two younger brothers (28 years and 26 years) arc dependent on him. As per him, being the only earning member of his family his unmarried sister and two unmarried brothers depend for their survival on him. Further, as per him, his sister is of marriageable age, and he alone would have to shoulder responsibility of her marriage. According to him, his siblings are students and he has to bear their expenses. To this, the petitioner states that his siblings arc major and thus legally not dependent on him. However, in this regard, I may take note of a judgment dt. 03.06.2022 of Delhi High Court in Sarita Bakshi v. State, 2022 SCC OnLine Del 1707 wherein it was observed:

> *19. xx ... xx ... xx*
> *Findings*
> *20. xx ... xx ... xx*
> *21. xx ... xx ... xx*
> *22. xx ... xx ... xx*
> *23. xx ... xx ... xx*
> *24. xx ... xx ... xx *

18. In judgment dt. 06.04.2023 of Delhi High Court in Marayamma v. Mani, 2023 SCC OnLine Del 2054 the respondent was allowed to keep a portion of his income for his widowed sister.

19. Given what has been held in Sarita Bakshi (supra) and in Marayamma (supra), it is my view that the respondent who is the lone earning member of his family and has to shoulder the responsibility of his family is bound to support his unmarried sister. He will have to shoulder responsibility of his sister's marriage. He is also bound to support his unmarried younger brothers who are not yet settled in life.

20. That apart, respondent Rajesh was given the job on compassionate grounds, stepping into the position once held by his late father. The underlying principle of compassionate appointment is to provide support to the family members of deceased employees, particularly in ensuring their financial stability. Had his father been alive, he would have had a moral obligation to support and settle all his children, including taking responsibility for their marriages. In this context, the respondent, by stepping into his father's role in the job, has essentially assumed not just the position, but also the moral responsibility that his father would have had towards the family. Therefore, it would be inconsistent, and indeed unfair, to contend that respondent should use the employment he inherited from his father to financially support the petitioner alone, while simultaneously absolving him of the other family responsibilities his father would have had. It is only logical that with the job, the respondent should also bear the duties and responsibilities that come with it, which his late father would *have otherwise fulfilled.*

21. What I also notice is that the petitioner is a graduate since 2007. She is separate from the respondent since 07.06.2009 and is in litigation with him for the last about 15 years. She is not saddled with responsibility of taking care of any child, for she was blessed with no child. It does not appear that over the course of last over 15 years she made any effort to find any work for herself.

22. Determination of maintenance is not to be done with mathematical exactitude.

23. Given the circumstances obtaining in this case, it is my view that it would suffice if respondent is directed to pay maintenance of Rs. 9,500/- per month to the petitioner from the date of this petition (27.02.2020) till she is legally entitled to receive the same.

24. It may be noted here that respondent's income, and enhancement of maintenance, has been assessed/ done on the basis of his salary slip of March 2024, while this petition was filed way back in February 2020. When this petition was filed, his salary would have been somewhat lower. To put it in context, as per respondent's salary slip of May 2022 his Gross Pay was Rs. 63,608/-, which is lower by Rs. 10,000/- compared to his salary of March 2024.

25. The legal mandate is that proceedings for grant of maintenance under CrPC is in the nature of an enquiry that is summary in nature {see Rajnesh v. Neha, (2021) 2 SCC 324}.

26. This file be consigned to record room."

9. As is evident from the above extract, the Family Court approached the matter holistically, factoring in not only the parties' respective financial capacities but also the Respondent's familial responsibilities. It is undisputed that he obtained employment as a postman on compassionate grounds following his father's demise. The jurisprudential foundation for such appointments, as articulated by the Supreme Court, is to provide immediate financial relief to the bereaved family, ensuring continuity of livelihood and stability. A compassionate appointment is not a matter of inheritance; it is intrinsically linked to the financial void left by the deceased and sustaining the family unit. In this context, the moral responsibilities shouldered by the Respondent's late father, particularly towards the

maintenance and settlement of his children, cannot be entirely severed from the role the Respondent assumed upon stepping into that post. These considerations, in the opinion of this Court, are not extraneous but form part of the "real-life matrix" within which the question of maintenance must be determined. The award of maintenance is not an abstract exercise and assessment cannot be done divorced from practical realities and ignoring obligations that the Respondent may have in the facts of a genuine case.

10. As for the Petitioner's grievance that undue emphasis was placed on the Respondent's obligations towards his siblings, this Court is unable to accept the submission. A plain reading of paragraphs 19 and 20 of the impugned order shows that the Family Court did consider these obligations, drawing support from ***Sarita Bakshi v. State***[3], and ***Marayamma v. Mani***[4]. These observations are neither incidental nor irrelevant; they form part of the factual matrix, where the Respondent's role as the sole earning member of his family and the dependency of his unmarried sister and brothers are matters of legitimate and genuine consideration.

11. The observations in paragraph 21 of the impugned order are particularly germane. The Family Court noted that the parties have been living separately since 7th June, 2009 and have been engaged in litigation for approximately 16 years as of the date of the impugned order, their marriage having been dissolved in 2019. Indeed, the Petitioner is not burdened with the care of any child, and the record indicates that, despite the long separation, she has made no effort to secure gainful employment. A Petitioner suffering from no incapacity, was certainly expected to make

[3] 2022 SCC OnLine Del 1707.
[4] 2023 SCC OnLine Del 2054.

reasonable efforts for her own sustenance. This, in the opinion of this Court, constitutes a relevant and material consideration in assessing the quantum of maintenance.

12. Further, as regards the contention that the Respondent's income has substantially increased since 2014, the Family Court has duly noted his earnings and deductions from salary. The Respondent's net take-home pay is INR 34,742/- per month. While certain deductions are towards welfare fund contributions, such provisions are reasonably directed towards the Respondent's post-retirement security, which is a reasonable necessity. In these circumstances, the enhancement granted to the Petitioner is proportionate to the increase in the Respondent's income and consistent with the overall facts and circumstances of the case.

13. In light of the foregoing, the Court finds no merit in the present petition.

14. Dismissed, along with pending application(s).

SANJEEV NARULA, J

AUGUST 7, 2025
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