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

+ **CRL.REV.P.(MAT.) 368/2025 & CRL.M.A. 24069/2025**

LAVENDER SINGH

.....Petitioner

Through: Mr. Prashant Saurabh, Ms.
Tamanna Bandhopadhyay,
Mr. Jasjit Pranjali, Mr.
Deep Raj & Mr. Dharam
Prakash Rana, Advs.

versus

NITIN ALIAS NITI

.....Respondent

Through: Mr. Manish Kumar, Ms.
Mariyam Nigar, Mr. Arun
Kr. Bhati, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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14.08.2025

1. The present petition is filed by the petitioner under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') read with Section 528 of the BNSS seeking setting aside of the orders dated 06.05.2023, passed in MT Case No. 283/2022, and order dated 30.05.2025, passed in MT Case No. 612/2023.

2. It is averred that the marriage between the petitioner and respondent was solemnized on 18.07.2021 as per Hindu rites and Customs. The relationship between the petitioner and respondent turned sour, whereafter, the respondent filed a petition for interim maintenance under Section 125 of the Code of Criminal Procedure, 1973 ('CrPC').



3. The learned Family Court *vide* impugned order dated 06.05.2023 directed the petitioner to pay interim maintenance of ₹9,000/- per month to the respondent from the date of filing of the application for interim maintenance.

4. The learned Family Court assessed the income of the petitioner to be ₹25,000/- per month. It was observed that the petitioner was a guest teacher. The learned Family Court took into consideration the petitioner's Bank Statement. It was noted that the salary of the petitioner varied as per the number of working days of the school, whereby, the learned Family Court assessed the average income of the petitioner to be ₹25,000/- per month on the basis of the petitioner's bank statement.

5. Aggrieved by the order dated 06.05.2023, the petitioner filed an application under Section 127 of the CrPC seeking modification/cancellation of the order directing the petitioner to pay interim maintenance to the respondent. By the order dated 30.05.2025, the learned Family Court dismissed the application filed by the petitioner after noting that there was no change in circumstances.

6. The learned counsel for the petitioner submits that the petitioner works as a visiting faculty at a government school and the awarded maintenance amount is exuberant.

7. He submits that the learned Family Court has failed to appreciate the fact that the petitioner was being subjected to cruelty by the respondent. He submits that the respondent repeatedly pressurised the petitioner to live separately from his family.

8. He further submits that the learned Family Court failed to



appreciate the fact that the respondent is registered with the Bar Council of Delhi and she is highly qualified. He submits that the respondent used to take tuition classes even prior to the marriage between the parties and she has not disclosed her true financial status. He further submits that the respondent's bank statements also reflect multiple credit entries which have not been considered.

9. He further submits that the bank statements filed by the respondent are not in conformity with the guidelines stipulated by the Hon'ble Apex Court in the case of **Rajnesh v. Neha : (2021) 2 SCC 324** as she had not furnished her statements for the last three years.

10. *Per contra*, the learned counsel for the respondent vehemently opposes the arguments as raised by the learned counsel for the petitioner and consequently prays that the present petition be dismissed. He submits that although the respondent is qualified, however, she is unemployed.

11. I have heard the learned counsel for the parties and perused the record.

12. In the present case, the petitioner has not disputed his assessed income. It has been contested that the respondent is capable of maintaining her and she is not entitled to any maintenance. It is further argued that the respondent has concealed her actual income and financial condition.

13. The learned Family Court has rightly taken note of the qualifications of the respondent and observed that as the registration of the respondent with the Bar Council was fairly recent, she was not expected to earn much. It was noted that



interim maintenance could not be denied to the respondent on the sole assumption of any potential earning. This Court is in agreement with the said observations.

14. Certain credit entries in one of the bank accounts have been referred by the petitioner, however, it is pertinent to note that the same relate to the period prior to the solemnisation of the marriage between the parties. No entries are pointed to show the respondent's income during the period of cohabitation or afterwards. Although parties embroiled in matrimonial disputes have a common tendency to not disclose their true financial status to gain an advantage, at this stage, *prima facie*, there is no material on record which shows that the respondent has a regular and continuing source of income or that she is in a position to maintain herself currently. Apart from bald averments about the lucrative nature of the legal profession, no such evidence has been adduced by the petitioner to show that the respondent has a steady income. There is a difference between capacity to earn and whether the wife is actually earning.

15. It is also argued that the awarded maintenance amount is exuberant. After assessing the income of the petitioner as ₹25,000/-, the learned Family Court divided the same into three shares as the petitioner has no other dependency, and awarded one share to the respondent. The manner of determination of maintenance is in line with the *dictum* in the case of ***Annurita Vohra v. Sandeep Vohra : 2004 (74) DRJ 99***, wherein it had been expounded that an equitable approach to dividing the collective income, forming the Family Resource Cake, is to two portions for the husband and one portion to each dependent



member. Even otherwise, at this stage, in the opinion of this Court, the awarded amount is reasonable.

16. Arguments have also been raised in relation to non-compliance of **Rajnish v. Neha** (*supra*). It is pertinent to note that it is not the case of the petitioner that no affidavit has been filed at all by the respondent. It is pertinent to note that the impugned orders relate to grant of interim maintenance. Any infirmity in the affidavit of the respondent can be redressed before an order of final maintenance is granted. Needless to say, in case it is found that the respondent is concealing any income, the interim maintenance paid by the petitioner would automatically be adjusted in the final order. Having noted that there is no material to show that the respondent has a steady income, setting aside the awarded interim maintenance on a mere technicality would be a travesty of justice.

17. Insofar as the dismissal of the application under Section 127 of the CrPC by impugned order dated 30.05.2025 is concerned, a bare perusal of the application shows that petitioner had sought to agitate similar arguments as raised before this Court in relation to concealment of income, qualification of the respondent and infirmity in affidavits. For relief under Section 127 of the CrPC, it is incumbent on the applicant to show proof of change in circumstances. It does not, however, provide for re-agitation of the merits of the maintenance order. As noted by the learned Family Court while dismissing the application, the petitioner had failed to demonstrate any such change in circumstances.

18. It is pertinent to note that the impugned order dated



06.05.2023 is only in relation to interim maintenance. The defences raised by the petitioner, including the arguments in relation to the earning of the respondent, along with the allegations and counter allegations, would be the subject matter of the trial, and would have to be decided after the parties have led their evidence.

19. In view of the aforesaid discussion, this Court finds no infirmity in the impugned orders which warrant interference from this Court. The present petition is accordingly dismissed.

20. Pending application also stands disposed of.

AMIT MAHAJAN, J

AUGUST 14, 2025

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