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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P.(MAT.) 397/2025**
HIMANSHU BUDHIRAJAPetitioner

Through: In-person
versus

BABY MYSHA BUDHIRAJARespondent
Through: None

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ORDER
28.08.2025

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CRL.M.A. 25676/2025 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CRL.REV.P.(MAT.) 397/2025

1. Petitioner is before this Court for setting aside the order dated 29.04.2025 passed by the learned Judge, Family Court-02 (West), Tis Hazari Courts, Delhi, in MT No.592/2023 titled as Baby Mysha through Latika Katyal vs. Himanshu Budhiraja, whereby the application under Section 91 Cr.P.C./ 94 BNSS filed by the petitioner was dismissed.

2. The petitioner, Himanshu Budhiraja, married the respondent, Ms. Latika Katyal, on 12.02.2016, and a daughter was born on 17.12.2019. Due to matrimonial discord, the respondent left with the child on 22.11.2020, leading to several litigations until a mutual settlement on 09.05.2023, followed by a divorce decree on 09.06.2023. The petitioner alleges that during the disputes, the respondent caused him loss of livelihood by sending a defamatory email on 24.03.2021 to his employer, which led to his resignation. To establish this conduct, he sought production of the said email

CRL.REV.P.(MAT.) 397/2025

Page 1 of 5



under Section 94 BNSS. However, the Family Court dismissed his application on 29.04.2025, ignoring the relevance of the email. Aggrieved, the petitioner has now approached this Court challenging the impugned order. Hence, the present petition.

3. Learned counsel for the Petitioner submits that the Family Court committed grave errors while disposing of the application under Section 94 BNSS. Despite the Petitioner specifically pleading the exact date of the email communication as 24.03.2021, the Court erroneously recorded confusion on the Respondent's part and failed to record her statement on solemn affirmation or under Order 10 CPC. The Court also ignored the significance of the said email, which had directly caused the Petitioner's loss of employment and livelihood, even as the Respondent simultaneously claimed maintenance under Section 125 Cr.P.C. on the ground of his unemployment.

4. It is further argued that the Court failed to secure disclosure of the Respondent's financial documents, including ITRs, GST returns, balance sheets, and bank statements of her business entities, and accepted an incomplete and illegible Income and Asset Affidavit without ensuring compliance. Such omissions show a mechanical disposal of the application, reflecting non-application of mind and defeating the object of Section 94 BNSS. The Petitioner clarifies that he is not seeking any stay of proceedings but only challenges the impugned order dated 29.04.2025, seeking a fair opportunity to prove his case. The relief sought would not prejudice the Respondent, as it merely requires her to affirm or deny on affidavit whether she sent the said email to the Petitioner's employer, along with its date and contents.



5. In the aforesaid backdrop I have heard the rival contention of the petitioner and perused the case file.
6. Before proceedings further, impugned order dated 29.04.2025 be seen which for ease of reference has been reproduced herein below :-

“Ld. counsel for petitioner has filed reply to application under Section 91 Cr.P.C./ under Section 94 of BNSS and income affidavit with documents, as per Index. Copies supplied.

The respondent submits that he has filed an application under Section 91 Cr.P.C./ under Section 94 of BNSS for seeking the e-mails and contents of the letter sent by the mother of petitioner to the employer of respondent in the year 2021 and he is confused whether it was done in the month of March, 2021 or prior thereto or thereafter.

It is submitted by Ld. counsel for the petitioner that the maintenance has been sought for the minor child and not for the mother of petitioner. It is further submitted that as per the settlement, the divorce decree has already been granted by the concerned Court on 09.06.2023. No dispute has been left between the mother of petitioner and respondent. It is further submitted by Ld. counsel for the petitioner that the record pertains when there was dispute between the husband and wife and at present, she does not have any record of the same.

Considering the entire facts & circumstances of the present case, since the mother of petitioner is not asking anything from the respondent for herself and the matter has already been settled between them, no such direction can be passed in the present matter, as sought by the respondent. Accordingly, the present application stands dismissed.

The application under Section 151 CPC was filed on date of hearing for visitation rights. Reply to the said application is also filed along with documents. Copies supplied.

It is submitted by Ld. counsel for the petitioner that the present application is not maintainable in the present case. It is further submitted that as per Settlement Deed, the



respondent has free access to meet with the minor child but as per the convenience of the mother as she is a working lady. It is further submitted that it is not possible to bring the minor child on every Saturday for visitation.

Now, it is agreed by and between the parties that mother of the petitioner will bring the minor child, who is petitioner in this case, on every Sunday at Hamley's Pacific Mall, Subhash Nagar, New Delhi at 05.00 p.m., where, the respondent can meet the minor child from 05.00 p.m. to 07.00 p.m. The respondent will pay Rs.500/- per visit as transportation charges to the mother of petitioner and the same amount be paid/deposited in the account of mother of petitioner one day prior to the day of visitation. If, the said amount is not deposited, then, the mother of petitioner is at liberty not to bring the minor child to the said place.

The respondent is directed to pay/deposit a sum of Rs.10,000/- per month as an ad-interim maintenance in the account of mother of petitioner from the month of May, 2025 and the said amount is to be paid/deposited on or before 10th day of each English Calender Month.

It is expected from the parties that they will not pollute the mind of the minor child against each other so that environment of the child shall remain congenial for overall development of the minor child.

During the said visitation, the said parties shall maintain peaceful and cordial behaviour with each other and parties will not create ruckus at that time at the said place in order to maintain peace and harmony amongst themselves as well as for the welfare of minor child.

The mother of minor child/petitioner can remain at the visible and hearing distance but she shall not disturb/ interrupt in the said visitation. If the said respondent wants to give gift(s) to the minor child, then, he is permitted to do so. Be put up on 29.072025 for arguments on interim application.

Copy of this order be given dasti to the parties/Ld.counsels."

7. Having heard the rival contentions and taking the wholesome view of the matter and on perusal of impugned order, I find myself in agreement



with the reasons assigned therein. In view thereof, no grounds to interfere are made out.

8. The application under Section 94 BNSS has rightly been dismissed as the documents sought have no bearing on the maintenance proceedings *qua* the minor. The issue before the Family Court is confined to the maintenance and visitation rights of the minor child. The disputed email of 2021 pertains to past matrimonial discord, which has already culminated in a mutual settlement and a decree of divorce dated 09.06.2023. Since no claim has been pressed by the mother in her personal capacity and the matter between the spouses has been settled, there is no necessity to summon such stale communications. Section 94 is to be invoked only where a document is necessary or desirable for the just decision of the case at hand, and not for collateral purposes.

9. Moreover, Section 94 cannot be used for a fishing or roving inquiry into matters unconnected with the claim under adjudication. The mother has already filed her income affidavit along with supporting documents in terms of the Family Court directions, and no further inquiry into old communications is warranted. Introducing such disputes would only rekindle past hostility between the parties, contrary to the paramount consideration of the welfare of the minor child. Prolonging proceedings with collateral controversies defeats the very object of summary adjudication in matrimonial matters.

10. Accordingly, the instant petition is also dismissed.

ARUN MONGA, J

AUGUST 28, 2025/dy