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

+ **CRL.REV.P.(MAT.) 415/2025, CRL.M.A. 26797-26799/2025**

ANSHUMAN VERMAN

.....Petitioner

Through: In person.

versus

STATE OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Mukesh Kumar, APP for State
with Mr. Sajid, SI, PS-Neb Sarai and
Mr. Raghuraj Singh, SI, PS-Sangam
Vihar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.09.2025

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1. The present revision petition under Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 401 of the Code of Criminal Procedure, 1973²) assails the order dated 13th March, 2024 passed by the Special Judge-NDPS/ASJ (South), Sake Courts, New Delhi. By the impugned order, the Sessions Court upheld the order dated 31st May, 2023, passed by the MM-02 (Mahila Court), South, Saketh Courts, New Delhi on an application under Section 23 of Protection of Women from Domestic Violence Act, 2005³ awarding interim maintenance of INR 12,000/- to Respondent No. 2 (wife) and INR 8,000/- to Respondent No. 3 (minor daughter).

¹ "BNSS"

² "CrPC"

³ "DV Act"



2. The Petitioner married Respondent No. 2 on 9th February, 2020 in accordance with Hindu rites and customs. On 9th March, 2021, a girl child was born (Respondent No. 3) from this marriage. After Respondent No. 2's discharge from hospital on 13th March 2021, the Petitioner asked her to stay with her parents. Since then, the parties have been living separately. The minor child has remained in the custody and care of Respondent No. 2.

3. In these circumstances, Respondent No. 2 instituted a petition under Section 12 of the DV Act and sought interim maintenance under Section 23 of the Act. After considering the pleadings and the income and expenditure affidavits, the Trial Court awarded INR 20,000/- per month as maintenance (INR 12,000/- to Respondent No. 2 and INR 8,000/- to Respondent No. 3) having regard to their needs, the parties' standard of living, and the Petitioner's earning capacity. Relevant findings of the Sessions Courts order to this effect are as follows:

14. *Coming to the facts of the present case, as per Ld. MM's prima facie findings on the basis of affidavit and documents submitted by both the sides before her, Ld. MM came to a conclusion that keeping in view the expenses of the respondent, social status of the parties, a sum of Rs. 12,000/- was awarded to the respondent/wife and Rs. 8,000/- to the minor child as monthly interim maintenance.*

15. *The appellant is not just an abled bodied man but is also a practising advocate It is not palatable that the appellant has no earning from his law practice and that he is totally dependent upon his aged father. Since the appellant did not come out clean as to his income before the Ld. MM, some amount of guesswork could not be ruled out on the part of Ld. MM in assessing the amount of interim maintenance. The evidence in the matter is yet to be recorded. Both the sides will have ample opportunity to produce evidence in support of their rival contentions and that the amount of interim maintenance fixed by Ld. MM is in the nature of interim monetary relief provided to the wife and the minor child in order to prevent them from the state of vagrancy. The approach of Ld. MM in this regard cannot be faulted with.*

16. *The appellant has also sought paternity test upon the minor child claiming that he is not the father of the child and as such, not liable to take*



any maintenance to the child. It is not in dispute that the respondent is a lawfully wedded wife of the appellant. Further, the child was also born during the subsistence of their marriage.

17. Section 112 of the Evidence Act is reproduced herein for convenience:

“112. Birth during marriage, conclusive proof of legitimacy- the fact that any person was born during the continuance of valld marriage between his mother or any man, or within 280 days (two hundred eighty days) after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.”

18. It is well settled that the presumption of legitimacy is a presumption of law. When a child is born from a wedlock, there is a presumption in favour of his legitimacy. The rule of evidence contained in Section 112 of the Evidence Act raises a mandatory presumption that a child born during wedlock, no matter when the child could be begotten is the legitimate issue of the husband of the mother.

19. In **Lal Hari Bansha Vs. Nikunj Behari Ilr 1960 Cuttack 230** the Hon'ble High Court reiterated the relevant principle of law as under:-

“Odiosa Et Inkonesta Non Sunt In Lege Praa Sunenda” which means 'nothing odious or dishonourable will be presumed by law'. So the law presumes against vice and immorality. One of the strongest illustrations of the principle is the presumption in favour of legitimacy of children in a civilised society.”

20. The Hon'ble Supreme Court in **Goutam Kundu Vs. State of West Bengal and Anr AIR 1993 SC 2295**, summarised the law on the subject as under:-

“(i) That courts in India cannot order blood test as a matter of course;

(ii) Wherever applications are made for such prayers in order to have robing enquiry, the prayer for blood test cannot be entertained.

(iii) There must be a strong prima-facie case in that the husband must establish non-access in order to dispell the presumption arising under Section 112 of the Evidence Act.

(iv) The court must carefully examine as to what would be the consequence of ordering the blood test; whether it will have the effect of branding a child as a bastard and the mother as an unchaste women.

(v) No one can be compelled to give sample of blood for analysis.”

21. Further in **Bhabani Prasad Jena Vs. Convinor Secretary, Odisha State Commission for Women AIR 2010 SC 285**, the Hon'ble Supreme Court held that DNA test is a matter relating to paternity of a child and it should not be directed by the court as a matter of course or in a routine manner, whenever such a request is made, the court has to consider diverse



aspects including presumption u/s 112 of the Act, pros and cons of such order and the test of "imminent need" whether it is not possible for the court to reach the truth without use of such test. The result of a genuine DNA test may not be enough to escape from the conclusiveness of Section 112 of the Act.

22. The law as enunciated in the *aforecited* decisions is abundantly clear that once the validity of marriage is proved then there is strong presumption about the legitimacy of child born out of that wedlock which cannot be easily dislodged. Hence, no such direction is to be passed.

23. The Ld. MM has passed a well reasoned order which does not warrant any interference. There is no merit in the present appeal. **Same is accordingly dismissed.**

TCR be sent back with copy of the judgment.

Appeal file be consigned to Record Room.

Announced in open court on 13.03.2024."

4. The Petitioner, appearing in person, assails the impugned order on multiple grounds. His objections may be summarised as follows:

4.1. The Trial Court failed to consider that Respondent No. 2 was fully aware, at the time of marriage, that the Petitioner had no fixed source of income and was still pursuing his three-year LL.B. course. Thus, her expectations of financial support were unrealistic given the circumstances then prevailing.

4.2. Respondent No. 2 has been gainfully employed in private service since 2011 and has, from 23rd June, 2019, been drawing a salary of about INR 25,000/- per month. She deliberately withheld this material fact from the Trial Court, though her professional credentials and employment details are publicly accessible on professional networking platforms such as LinkedIn.

4.3. Respondent No. 2 has concealed her true earnings and filed an incomplete and misleading income affidavit. The affidavit does not make a full disclosure of her financial position and seeks to create a misleading



impression that she is entirely without means to support herself.

4.4. The Trial Court also failed to consider the details supplied by the Petitioner, which indicate multiple significant monetary transactions in Respondent No. 2's account between 1st April, 2020 and 26th March, 2023. These include transfers of approximately INR 51,000/- to her father *via* online platforms, suggesting undisclosed additional sources of income.

4.5. The above transactions are at variance with the income and expenditure statement furnished by Respondent No. 2 before the Trial Court, thereby reflecting that she possesses sufficient means to maintain herself. Consequently, the award of interim maintenance is unwarranted and unjustified.

5. The Court has considered the aforementioned facts and contentions. It bears emphasis that the impugned order concerns interim maintenance under Section 23 of the DV Act, a provisional arrangement intended to secure sustenance for the claimant during the pendency of proceedings. Such relief is based on a *prima facie* assessment of the material on record. It neither determines the final rights of the parties with respect to maintenance, nor does it prevent either party from leading further evidence during trial. The statutory scheme only ensures that the dependent spouse or child is not left without financial support while the *lis* is pending.

6. The Trial Court drew its assessment of the maintenance based on the parties' affidavits, qualifications, and standard of living, and the Sessions Court found the assessment balanced: INR 12,000/- per month for the wife and INR 8,000/- per month for the minor child. The Petitioner's assertion of zero income, despite being a practising advocate with professional degrees, was rightly treated with circumspection.



7. This approach is in line with the settled position of law on maintenance. Where a party withholds true financial particulars, adverse inference and fair estimation are legitimate tools to avoid reducing maintenance to a hollow formality. An element of reasonable guesswork is permissible where income is concealed or not fully disclosed.⁴ The rationale is based on settled position that, in such cases, the Court must have regard to the parties' standard of living, social background, and overall circumstances, rather than rely solely on the self-serving statements of either party.

8. The Court is also unable to accept the Petitioner's assertion that Respondent No. 2 is independently earning and has sufficient means to maintain herself. This contention rests largely on conjecture and material not substantiated in evidence. The Petitioner relies upon a LinkedIn profile and certain bank transfers to allege that Respondent No. 2 is gainfully employed and drawing a monthly salary of INR 25,000/-. However, these are matters of proof that cannot be conclusively determined at the interim stage, nor within the limited scope of revisional jurisdiction.

9. More fundamentally, even if it were to be assumed that Respondent No. 2 has some earning capacity, that does not, in law, absolve the Petitioner of his duty to provide for her sustenance and for the upkeep of the minor child. Section 20(1)(d) of the Protection of Women from Domestic Violence Act, 2005, expressly empowers the Magistrate to grant monetary reliefs, including maintenance, notwithstanding the existence of an independent income of the aggrieved person, where such income is found insufficient to meet her needs. The test is not whether the wife has any income, but

⁴ *Bharat Hegde v. Saroj Hegde*, 2007 SCC OnLine Del 622; *Rajnish v. Neha and Another*, (2021) 2 SCC 324.



whether she has adequate means to secure a life of dignity, consistent with the standard she was entitled to in her matrimonial home.

10. The Supreme Court has consistently held that an able-bodied husband cannot avoid his duty of maintenance by pleading that the wife is employed, that she should contribute equally, or by relying on excuses of limited means. This responsibility assumes even greater significance when minor children are in the custody of the wife, for their upkeep is inextricably linked with the mother's sustenance.⁵ The duty to maintain is statutory, moral, and sacrosanct, and only ceases on legally recognised grounds such as remarriage, proven misconduct disentitling maintenance, or a decree expressly negating the claim. Until then, the husband must ensure that his wife and children are not reduced to penury.

11. On the facts of this case, Respondent No. 2, a graduate who was briefly employed prior to her marriage, is now caring for a minor child of tender years. The child's daily needs, i.e., nutrition, healthcare, education, are inseparable from the mother's upkeep. It is unrealistic to expect her to simultaneously discharge the role of primary caregiver and generate sufficient income to match the Petitioner's obligation. As underscored by the Supreme Court in **Chaturbhuj v. Sita Bai**,⁶ maintenance must be "reasonable and realistic": adequate to prevent hardship to the wife, yet not so excessive as to become oppressive to the husband. In this backdrop, the maintenance fixed at INR 12,000/- for the wife and INR 8,000/- for the child is within the bounds of reasonableness and meets their essential needs.

12. At this stage, it is pertinent to note the limited scope of interference

⁵ *Shamima Farooqui v. Shahid Khan* (2015) 5 SCC 705; *Anju Garg v. Deepak Kumar Garg* 2022 SCC OnLine SC 1314.



under Section 442 of BNSS at the stage of revision. Revisional jurisdiction exists to ensure the legality and propriety of subordinate court orders, correcting jurisdictional defects, manifest legal errors, or perverse findings causing miscarriage of justice. It is not an appellate forum for re-assessing evidence or substituting another plausible view.⁷ In light of the foregoing discussion, and bearing in mind the scope of revisional jurisdiction, this Court finds no perversity or legal infirmity in the concurrent findings of the Trial Court and the Sessions Court so as to warrant interference.

13. It must be reiterated that an order of interim maintenance is a provisional measure aimed at ensuring the subsistence and basic financial security of the claimant during the pendency of proceedings. Such an arrangement neither crystallises the ultimate rights and obligations of the parties nor forecloses a fresh determination upon a full appraisal of evidence at the final stage.

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

SANJEEV NARULA, J

SEPTEMBER 9, 2025

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⁶ (2008) 2 SCC 316.

⁷ *State of Kerala v. Puttumana Illath Jathavedan Namboodiri*, (1999) 2 SCC 452.