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

\+ CRL.REV.P.(MAT.) 420/2025, CRL.M.A. 27111/2025 & CRL.M.A. 27112/2025

ROHIN PAUL .....Petitioner

Through: Mr. Krishan Kumar, Mr. Shivam Bedi, Advocates

versus

SAPNA PAUL .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% 11.09.2025

1. The present petition under Section 438/442 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] (formerly Section 397/401 of the Code of Criminal Procedure, 1973[2]) assails judgment dated 07th July, 2025 passed by ASJ-02 (South East), Saket Courts, Delhi. By the impugned judgment, the Appellate Court affirmed the entitlement of Respondent No. 1 to monetary relief under the Protection of Women from Domestic Violence Act, 2005,[3] and fixed maintenance at INR 75,000/- per month.

2. The Petitioner is the husband of the Respondent, a fact not in dispute. They were married on 10th February, 1991, and from this marriage, they have a son who has attained majority.

3. Due to temperamental differences, the parties have separated. The disputes between them surfaced on 23rd November, 2009, when Respondent No. 1 lodged a complaint before the CAW Cell. Shortly thereafter, on 18th

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[1] "BNSS"
[2] "Cr.P.C."

December, 2009, she instituted proceedings under Section 12 of the DV Act before the Mahila Court, seeking, *inter alia*, maintenance. By order dated 16th November, 2016, the Trial Court directed the Petitioner to pay a sum of INR 1,00,000 per month to the Respondent, inclusive of maintenance for their then minor son, and further awarded compensation of INR 5,00,000. Aggrieved thereby, the Petitioner preferred Criminal Appeal No. 60/2017 on 8th February, 2017 before the Sessions Court. Parallelly, he also instituted a petition under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955, which culminated in a decree of divorce on 10th December, 2020.

4. In the meantime, by order dated 1st November, 2019, the Sessions Court allowed the appeal, set aside the Trial Court's decision, and remanded the matter for reconsideration. Respondent No. 1 challenged that remand order by way of Criminal Revision Petition No. 224/2021 before this court. On 19th January, 2024, this Court allowed the revision, set aside the remand order of 1st November, 2019, and directed the Sessions Court to decide Criminal Appeal No. 60/2017 on merits. By the same order, interim maintenance was fixed at INR 50,000 per month, payable with effect from 16th December, 2009 until 1st November, 2019, subject to adjustment against sums already paid.

5. Pursuant to the directions of this Court, the Sessions Court reheard the matter and, by judgment dated 7th July, 2025, dismissed Criminal Appeal No. 60/2017, thereby affirming the Respondent's entitlement and fixing maintenance at INR 75,000 per month.

6. The Petitioner aggrieved with the aforenoted outcome has filed the instant petition. Counsel for the Petitioner places reliance on the Judgment

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[3] "the DV Act"

of this Court in ***Annurita Vohra Vs. Sandeep Vohra***,[4] and in ***Yashwani Verma vs. Virender Verma***[5] and advances the following submissions:

6.1. The Appellate Court erred in awarding maintenance of INR 75,000/- per month, overlooking the settled proposition of law that, in the absence of any dependent child, the wife is ordinarily entitled to one-third of the husband's net disposable income. Since the parties' son is now 35 years old and earning, she is not entitled to any maintenance. Applying the ratio in ***Annurita Vohra***, the maintenance could certainly not have been fixed at INR 75,000/-.

6.2. Petitioner's current income position has been grossly misconstrued. He has been associated with Showtime Events Pvt. Ltd. merely in an advisory role since 2021, and his remuneration has remained modest INR 59,086/- per month for the financial year 2021-22, and INR 1,00,000/- per month in 2022-23 and 2023-24. The Appellate Court, however, proceeded on the premise that the Petitioner continues to command the same high income as in the past, without due regard to the limited and reduced nature of his present engagement.

6.3. The Respondent possesses independent means and earning capacity, having been employed on several occasions and deriving rental income. By disregarding these aspects, the Appellate Court has effectively overlooked her duty of candid disclosure and placed the entire financial burden upon the Petitioner.

6.4. The marriage between the parties was dissolved by decree of divorce on 10th December, 2020. In such circumstances, awarding substantial

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[4] 2004 (110) DLT 546

[5] MAT. APP. (FC) No. 174/2023

maintenance to the Respondent for the period post-dissolution, without proof of inability to maintain herself, is contrary to settled law which recognises that the obligation to maintain an ex-spouse is conditioned by demonstrated dependency.

6.5. The impugned order rests on assumptions about the Petitioner's financial status without any cogent material. No exercise was undertaken to compute his disposable income after deducting statutory liabilities, taxes, and reasonable personal expenses, which is a mandatory step while fixing maintenance.

6.6. The Appellate Court's conclusions about Petitioner's affluent lifestyle and capacity to pay are speculative and unsupported by contemporaneous material. In the absence of documentary evidence regarding his assets or standard of living, such findings are conjectural and cannot sustain an award of maintenance at the impugned level.

7. The Court has considered the aforenoted contentions. The Appellate Court, in compliance with directions of this Court by order dated 1st January, 2024, has held as under:

> *"65. In view of the aforesaid discussion, I am of the considered view that the case of the complainant/wife stands proved and that the appellant/husband had committed domestic violence upon the complainant/wife. The different pleas taken by the appellant/husband herein have been discussed above and have been discarded by the undersigned. Further, in the present matter, the aforesaid pleas raised by the appellant/husband herein were required to be established during trial. The appellant/husband had the proper opportunities to prove the aforesaid claims by leading evidence or by cross-examining complainant by putting on record school fees receipts, tuition fees receipts, uniforms receipts, books receipts and other relevant records which were allegedly paid by appellant/husband for the welfare of the minor child as claimed by him in the appeal filed. However, it was the appellant/husband who failed to appear before the trial court and cross-examine the complainant in respect to the same, and therefore,*

was proceeded ex parte and it would be suffice to observe that there are no palpable reasons to disbelieve the version of complainant by the Ld. Trial Court in the absence of the appellant/husband appearing before it. Therefore, the aforesaid claims of appellant/husband is of little relevance and hence discarded. Ld. Trial Court had passed a well reasoned order by considering carefully the evidence on record and also after taking into consideration the material placed on record by both the parties.

66. Perusal of the record shows that the appellant/husband had not filed any financial documents before the Ld. Trial Court and had only filed the written submissions. However, subsequently, the parties had filed their financial documents at the stage of appeal.

67. The appellant/husband had filed a chart describing the expenses incurred upon the son during the education of child in school and college. Alongwith the aforesaid chart the school fee receipts of the child for the year 2005 to 2007 has been placed on record. In support of the same the appellant/husband has also filed the school fees schedule of the child while the child was studying at Kodaikanal during the year 2007-2008 and copy of demand draft pertaining to the payments made to the aforesaid school by the appellant/husband during the aforesaid period. The appellant/husband has also filed the college expenses of Uday Paul (son of the parties) while he was studying at Delhi College of Art for the year 2011 to 2014 and the fees receipts of the same. Further the appellant/husband has also placed on record the copy of air tickets allegedly book by him for the child for his travel between Delhi and Pune. With the aforesaid documents appellant has also placed on record a copy of cash memo in his own name regarding purchase of one laptop in June, 2011, and some medical bills pertaining to Uday Paul to Holy Family Hospital in the year 2007. Apart from the aforesaid documents appellant/husband has also filed his income tax return for the assessment year 2018-2019, 2019-2020, 2020-2021, 2021-2022, 2022-2023, alongwith Form AS, computation and statement of account for his bank account of South Indian Bank, HDFC Bank, Axis Bank, Income from M/s Gemini Enterprise Ltd.

68. It has been argued on behalf of complainant/wife that the perusal of bank account statement of the appellant/husband itself shows that the appellant/husband is currently having income from several sources and that he was earning salary of Rs. l,00,000/- per month being the director in Show Time Events India Pvt. Ltd., further the appellant have 75% share in the property bearing no.9/1, Kalkaji Extension New Delhi, 9.97% Shareholding in M/s Showtime Events India Pvt. Ltd. Further, having 25% share holding in the company Mis SFX Entertainment Technologies Pvt. Ltd and is also a Director. It has also been argued that the appellant was earning a salary of

Rs.45,75,600/being a director for M/s Showtime Events for the financial year 2014- 2015 i.e. Approximately Rs.3,81,300/- per month and had profit of Rs.50,83,298/- for the same financial year and had also earned profit of Rs.5,06,805/- from the share profit of the aforesaid company, and the same was earned by the appellant even in the financial year 2017-2018 with slight variations. It has also been argued that the appellant had concealed his income from Gemini Enterprise and the Bank account statement pertaining to AXIS Bank, South Indian Bank and HDFC Bank show regular income and for the past three financial year the appellant has earned an amount of Rs. 1,64,91,9431- cumulatively from Gemini Enterprises which amounts to Rs. 4,58,109/- approx. per month. It is also argued that even today the appellant is earning an amount of Rs.3.75 Lakhs per month.

69. On the other hand, complainant/wife has also placed on record her financial documents including certified copies of the bank account statement pertaining to ICICI Bank for the period between 01.04.2012 to 01.04.2016 and 01.04.2021 to 31.03.2024.

70. Upon perusal of the financial documents of the parties, it is observed that the complainant/wife was maintaining only one bank account in ICICI Bank Branch Nehru Place, Delhi, and the credit amount during the period 01.04.2012 to 01.04.2016 is meager ranging from small deposits of Rs. 14,100/-. The salary credited to the account of complainant/wife during her tenure employment is of Rs. 50,400/-, and apart from the aforesaid deposits the account statements do not reflect deposit of any big amounts to the credit of the complainant/wife. Further, the bank account statement pertaining to the complainant wife during the period 01.04.2021 to 31.03.2024 also shows deposits made by her son in her account for her expenses ranging from Rs.50,000/- to Rs.60,000/- on different occasions and apart from the deposit made by her son there are no deposits in her account from any other sources.

71. The perusal of the bank account statement of the appellant/husband show that during the year March, 2021 to March, 2024 that income has received from Show Time of Rs. 59,086/- every month in the AXIS Bank account which increased to Rs. 1 Lakh on 02.06.2022 (as salary from Show Time), received by him through NEFT every month, and further, an amount of Rs.50,000/- received from Gemini on 26.06.2023, and Rs.5 Lakhs on 08.07.2023, Rs.5 Lakhs on 09.07.2023, Rs. 5 Lakh on 10.07.2023, and the same shows an amount of credit in his account for the year between 01.04.2023 to 31.03.2024, a sum of Rs. 2911185/-.

72. The perusal of the bank account statement of South Indian Bank for the period between 01.04.2021 to 31.03.2024 shows that an amount of Rs.3J 8,000/- received by him on 09.08.2021. An amount of Rs. 3.78 Lakh was received on 03.03.2022, Rs.68,500/- received on

28.09.2022, Rs.3,78,000/- received on 03.03.2023, Rs. 10 Lakh received on 03.07.2023, Rs.5 Lakh received on 07.07.2023, 08.07.2023 and 10.07.2023 from Gemini and Rs.37 Lakh received on 01.02.2024 and the cumulative amount credited in the bank account of South Indian Bank for the aforesaid period is Rs. 88,21,125/-.

73. The bank account statement of HDFC Bank of the appellant shows that during the year March, 2021 to March 2024 there is deposit of Rs.25,000/- from Gemini Enterprise on 28.12.2021, Rs.30,000/- on 08.02.2022, Rs.25,0001- on 15.02.2022, and cash deposit from Gemini Enterprise again on 27.02.2022, 29.03.2022, 06.10.2022, 20.11.2022 and many other deposits even of bigger amount like Rs.5 Lakh on 02.07.2023 and 03.07.2023. The aforesaid account statement also shows total credit amount in the aforesaid bank account of the appellant to be Rs.27,664,469/-.

74. The evaluation of the aforesaid financial record pertaining to both the parties shows that there are ample number of deposits in the bank account of the appellant into huge amounts as compared to the complainant/wife. Though it has been stated by the appellant that he was paying for the education expenses of the child between the parties, there is no whisper of any contribution or any financial assistance towards the complainant or any other expenses of the child during the separation between the parties a for the year 2004 and during the pendency of the complaint before the trial court between December, 2009 to November, 2016 when the matter was finally decided by the Ld. Trial Court. It cannot be ignored that apart from the educational expenses towards the child there are other expenses incurred for the well being of the child like clothing, extracurricular activities, medical ailments, shoes, books, technological devices, tuition, food, nourishment etc. which are required to bring up a child which perhaps was taken care by the complainant/wife alone.

75. In my considered view, the Ld. Trial Court has meticulously calculated the aforesaid maintenance amount to the complainant and her minor child in its impugned order dated 16.11 .2016. In view of the financial documents, filed by both the parties, it is certain that the appellant was having stable income during the period 2009 to 2016 for an amount of Rs.3.5 Lakhs per month. Further, for the period during 2016 to 2021, the appellant financial documents are not available on record but it can be assessed that he continued to have the aforesaid income of Rs.3.5 Lakh per month. Also from the documents of the appellant for the period between 2021 to 2024 also shows that he has been earning an income from different sources of Rs.3 Lakhs per month. Despite several opportunities to the appellant he initially did not disclose regarding the bank account held by him in his name and the same was furnished only upon the application moved on behalf of the complainant U/s 91 Cr.P.c. The appellant has claimed *in response to the aforesaid application that he had resigned from Gemini Enterprise in the August, 2024, however, during the aforesaid period appellant has been continuously receiving the amount from the aforesaid company, which is substantiated from the bank account statement annexed by the appellant.*

76. Therefore, the maintenance awarded by Ld. Trial Court is adequate, not on higher side and has been granted after considering the conduct of appellant/husband in shirking his responsibility of maintaining his wife and minor child during the period 2009-2016 and that the appellant/husband is under legal obligation to maintain his wife and minor child, to take care of them and also to give decent living to them by providing basic necessities.

77. Therefore, considering that the litigation between the parties has been pending since the year 2009 and with the passage of time the appellant may not be physically in the capacity to have the same income which he was drawing in 2009, it cannot be said that he is not earning now or is not having any financial resources as the bank account statement of the appellant are self explanatory. The bank account statement and financial record of the appellant clearly shows that appellant was having financial resources more than the complainant/ wife and he during the year 2009 and onward did not pay maintenance towards the complainant/wife and the child. To conclude it is assessed from the record, the income of the appellant/husband was Rs.3.5 Lakhs per month from the year 2009 till 2016 and during the aforesaid period the child was seeking education and had not completed the same, and therefore, both the complainant and the child is entitled for maintenance. Therefore, for the aforesaid period between 2009 till 2016 the maintenance of Rs. 1 Lakh per month granted to the complainant by the Ld. Trial Court for herself and the minor child cumulatively has been rightly granted. Further the complainant was granted compensation amount of Rs.5 Lakhs U/S 22 of PWDV Act and the same has been correctly decided by the Ld. Trial Court.

78. Further, for the period January, 2017 onward, since the child had completed the education, only complainant/wife is entitled for maintenance and considering the financial income of the appellant/husband can be assessed to be Rs.3 Lakhs per month, the complainant/wife is entitled for maintenance of Rs.75,000/- per month.

79. I am of the considered opinion that appellant Rohin Paul, is capable of paying the maintenance as awarded above.

80. Present Appeal, therefore stands dismissed and disposed off accordingly. Any amount paid towards maintenance to the complainant/wife till date in any proceeding and in present matter shall be adjusted towards the decreetal amount.

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File be consigned to Record Room after due compliance."

8. The challenge raised by the Petitioner rests on two prongs: first, that the Appellate Court erred in assessing his income; and second, that the Respondent is qualified and self-sufficient, thereby disentitled to claim maintenance.

9. On the first limb, the burden lay firmly on the Petitioner to demonstrate, through complete financial disclosure, any genuine reduction in his earning capacity. Matters relating to one's own income, liabilities, and assets fall are matters of special knowledge under Section 106 of the Indian Evidence Act, 1872, and any suppression or selective disclosure justifies an adverse inference under Section 114, Illustration (g). Moreover, the material on record, discloses a contrary picture: sustained and sizeable credits into multiple bank accounts, as enumerated in paragraphs 71 to 73 of the impugned judgment, including a regular monthly salary from Showtime Events, repeated large inflows from Gemini Enterprises, often in lakhs, and other substantial deposits. Such transactions are wholly inconsistent with the plea of financial penury, sought to be advanced.

10. More significantly, several of these accounts came to light only on the Respondent's application under Section 91 of the Cr.P.C., thereby revealing that the Petitioner initially withheld disclosure. This conduct further undermines his plea and entitles the Court to draw an adverse inference. Thus, the Appellate Court was justified in assessing the Petitioner's capacity with reference to his last known substantive earnings and consistent banking trail, rather than resting on his self-serving statements. The Court's estimation of approximately INR 3-3.5 lakh per month as his income across

different periods is therefore not speculative but a conservative inference drawn from his own financial documents.

11. On the second limb, the contention that the respondent is self-sufficient does not withstand scrutiny. The Appellate Court carefully examined her financial documents and found only one ICICI account, reflecting modest and sporadic deposits, with occasional transfers from the adult son. No reliable proof of a steady income stream or rental receipts of a magnitude capable of sustaining her living expenses was placed on record. At best, the material demonstrates intermittent support, not a self-sustaining financial position.

12. In any event, the legal principle is well settled: the enquiry is not whether the wife has *some* income, but whether she possesses adequate and independent means to live with dignity, in a manner broadly commensurate with the status she enjoyed during the marriage. In ***Chaturbhuj v. Sita Bai***,[6] the Supreme Court clarified that the purpose of maintenance is to prevent vagrancy and destitution, ensuring that a deserted wife does not suffer a fall into penury. In ***Shamima Farooqui v. Shahid Khan***,[7] the Court reaffirmed that a healthy, able-bodied husband cannot shirk responsibility on the plea of limited means, and that the standard of maintenance must allow the wife to live with dignity. Most recently, in ***Anju Garg v. Deepak Kumar Garg***,[8] the Court emphasized that the obligation to provide for the wife and children is sacrosanct. Even if the wife earns something, that does not absolve the husband unless her income is sufficient to meet her needs at a comparable

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[6] (2008) 2 SCC 316
[7] (2015) 5 SCC 705
[8] (2022) 4 SCC 443

standard.[9]

13. The statutory framework under Section 20(1)(d) of the DV Act also reinforces this principle by expressly permitting monetary relief notwithstanding some independent income, where such income is insufficient. On the factual plane, the record demonstrates that while the Petitioner points to making certain payments towards the education of their son, the day-to-day costs of running the household and caring for the child during the years of separation were shouldered by the Respondent alone. The Petitioner's focus on isolated contributions cannot absolve him of the broader obligation to provide sustained financial support.

14. Reliance on the decision in ***Annurita Vohra*** is misplaced. The "one-third of net disposable income" guideline is a broad principle and not a rigid rule. It must be applied having regard to the facts of each case, including the payer's actual or potential earning capacity, established lifestyle, and the reasonable needs of the claimant. Where a party withholds full particulars, the Court is not constrained to rely upon the theoretical figures projected, but may draw inferences from the surrounding material to arrive at a fair assessment. The onus lies on the payer to prove deductions, taxes, statutory liabilities, and reasonable personal expenses. In the present case, despite ample opportunity, the Petitioner has failed to provide a transparent, comprehensive statement of income and deductible outgoings. Based on the Appellate Court's conservative assessment of a monthly earning capacity of INR 3,00,000, the maintenance award of INR 75,000 per month amounts to 25%, which aligns with the principle enunciated in ***Annurita Vohra*** and cannot be considered excessive. The majority status of the son only removes

[9] Rajnesh v Neha and Ors. (2021) 2 SCC 324

his entitlement and does not extinguish the Respondent's independent claim.

15. The argument that post-divorce maintenance is impermissible also cannot prevail. Proceedings under Section 12 of the DV Act were instituted long before the decree; monetary relief under Section 20 can be moulded to redress economic abuse and secure sustenance even after dissolution, where dependency persists.[10]

16. In any case, considering the broader principles governing maintenance, a divorced wife who lacks adequate means cannot be deprived of relief solely on the ground of divorce. On the facts of the present case, including the long duration of the marriage, the prolonged litigation concerning separation since 2009, the opaque financial disclosures by the petitioner, and the limited income of the respondent, the fixation of maintenance at INR 75,000 per month by the Appellate Court cannot be deemed perverse or legally unsustainable. Accordingly, the order of the Appellate Court calls for no interference.

17. In view of the above, the present petition is dismissed along with pending applications.

SANJEEV NARULA, J

SEPTEMBER 11, 2025/ab

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[10] Juveria Abdul Majid Patni v. Atif Iqbal Mansoori, (2014) 10 SCC 736