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

+ MAT.APP.(F.C.) 389/2025, CM APPL. 67975/2025 (Exp.),  
CM APPL. 67976/2025 (delay of 24 days delay in filing the  
Appeal), CM APPL. 67977/2025 (Exp.) & CM APPL.  
67978/2025 (Delay of 24 days in re-filing the Appeal)

JAI CHARAN

.....Appellant

Through: Mr Raghav Chopra & Ms  
Pridhi Chopra, Advs.

versus

MS. ANITA

.....Respondent

Through:

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN  
SHANKAR**

**ORDER**

**31.10.2025**

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1. The present Appeal, under Section 380 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [“BNSS”], impugns the Order dated 23.07.2025 passed by the learned Family Court, South District, Saket, New Delhi, in Mt. Cases 377/2023. By way of the Order impugned herein, the application filed by the Appellant under Section 379 of the BNSS, praying for direction against the Respondent for filing a false income affidavit along with the pending interim maintenance application, came to be rejected.

2. The Appellant and Respondent were husband and wife and their marriage was dissolved by a decree of divorce granted on 03.02.2023.

3. It is submitted by the learned Counsel for the Appellant that the Respondent had filed an application under Section 125 of the Code of



Criminal Procedure, 1973 [“CrPC”] for the grant of maintenance. Initially, her income affidavit dated 06.01.2017 disclosed that she does not have any immovable property in her name. However, subsequently, she filed an affidavit on 20.12.2024 disclosing property, i.e. L-1, 2396/15, Asthal Mandir, Sangam Vihar, New Delhi-110080, as her self-acquired property.

4. It is admitted that both parties are residing in the same premises. Further, the respondent has studied till only 4<sup>th</sup> class. She is not expected to know the English language. Both the affidavits are in English.

5. The Respondent is also taking care of two children born out of wedlock with the Appellant. Moreover, the parties are already separated by a decree of divorce granted in 2023.

6. We are of the considered opinion that initiation of proceedings under Section 379 of the BNSS is discretionary. The Courts are required to be careful before initiating proceedings under Section 379 of the BNSS. While examining the *pari materia* provision being Section 340 CrPC., the Hon’ble Supreme Court in ***State (NCT of Delhi) v. Pankaj Chaudhary*** [(2019) 11 SCC 575] held as under:

“47. Before directing the prosecution to be initiated under Section 195 CrPC, the court has to follow the procedure under Section 340 CrPC and record a finding that “*it is expedient in the interest of justice....*”. Though wide discretion is given to court under Section 340 CrPC, the same has to be exercised with care and caution. To initiate prosecution under Section 195 CrPC too readily that too against the police officials who were conducting the investigation may not be a correct approach. The contention of the learned counsel for the police officials is that before passing the direction to initiate the prosecution for the offences under Sections 193, 195 and 211 IPC, the High Court ought to have followed the procedure contemplated under Section 340(1) CrPC.”



7. In the conspectus of the facts and law laid in pursuance of dealing with the relevant provisions, this court does not does not find it appropriate to interfere with the Impugned Order.

8. Hence, the present appeal, along with all the pending application(s), if any, is dismissed.

**ANIL KSHETARPAL, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**  
**OCTOBER 31, 2025/v/va**