



2025:DHC:5608



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 15.07.2025*+ **CRL.REV.P.(MAT.) 103/2024 & CRL.M.A. 35040/2024**

MANISH HANDA

.....Petitioner

Through: Mr. Sameer Chandra, Mr.
Aryan Tomar and Mr.
Shubham Parashar, Advocates

versus

NEHA HANDA & ORS.

.....Respondents

Through: Mr. Gaurav Seth, Mr. Navjot
Kwatra and Mr. Vipin Malik,
Advocates**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present revision petition, the petitioner-husband assails the order dated 13.09.2024 [hereafter '*the impugned order*'] passed in MT Case No. 727/2023, whereby the learned Family Court-01, Shahdara, Karkardooma Courts, Delhi [hereafter '*Family Court*'], has directed the petitioner-husband to pay consolidated interim maintenance of ₹25,000/- per month to respondent no. 1 (wife) and respondent nos. 2 and 3 (minor daughters), in addition to bearing the school fees of respondent nos. 2 and 3.

2. The brief facts of the case are that the petitioner and



2025:DHC:5608



respondent no. 1 were married on 29.08.2010. Out of the said wedlock, twin daughters were born on 10.06.2011. It is the case of the petitioner that he is engaged in the business of manufacturing stainless steel railings and gates, and that respondent no. 1 left the matrimonial home without any sufficient reason, after repeated quarrels, to live independently at her parental home. He further alleges that she denied him access to their children and deprived him of their love and affection. He claims that she filed a false complaint against him and his family members and misused the process of law. According to him, despite his efforts for reconciliation, she refused to reside with him in the matrimonial home, and even during the period of cohabitation, she had initiated legal proceedings against him and his family members.

3. The records reveal that on 19.10.2023, respondent no. 1 filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereinafter '*Cr.P.C.*'] before the learned Family Court seeking maintenance. She alleged that soon after the marriage, her husband and in-laws began harassing and taunting her with demands for dowry. It was further alleged that she was subjected to mental and physical cruelty for having given birth to two daughters. She claimed that on 16.07.2020, her husband and in-laws assaulted her and forcibly evicted her from the matrimonial home, after which she began residing with her aged mother. But at that time, her husband had assured her that he will take care of her and provide her with a better life. However, allegedly, the petitioner-husband had again



2025:DHC:5608



started harassing and even beating the respondent-wife, due to which she was compelled to leave her matrimonial home on 16.09.2023.

4. By way of the impugned order dated 13.09.2024, the learned Family Court disposed of the interim maintenance application filed by the respondent no. 1, and awarded consolidated interim maintenance of Rs. 25,000/- per month to the respondents herein, in addition to bearing the school fees of respondent nos. 2 and 3.

5. Aggrieved by the impugned order, the learned counsel appearing for the petitioner submits that the said order has been passed without proper appreciation of the petitioner's actual income. It is contended that the learned Family Court has erroneously assessed his monthly income as ₹70,000/-, without considering the expenditure incurred on raw materials and other business inputs which form part of his expenses, not income. It is further argued that, in his reply to the petition under Section 125 of Cr.P.C. as well as in the affidavit of income and assets, the petitioner had clearly disclosed his income to be between ₹30,000/- to ₹40,000/- per month, which has been disregarded without justification. The learned counsel also submits that the Family Court failed to take into account that respondent no. 1 has independent income from a beauty parlour and a boutique, which she is allegedly running in the name of their daughters. It is alleged that the impugned order was obtained by respondent no. 1 through misrepresentation and that the consent referred to in the proceedings was not given voluntarily. It is next



2025:DHC:5608



contended that the learned Family Court failed to consider the petitioner's financial liabilities, including the fact that his parents are dependent on him and he is required to pay ₹12,400/- per month towards a home loan to GIC Housing Finance. It is also argued that the learned Family Court has erroneously directed the petitioner to pay ₹25,000/- per month as maintenance, in addition to the school fees of the children, from the date of filing of the application, despite the fact that the parties were living together under the same roof at respondent no. 1's residence till 16.09.2023 and the petitioner was bearing all household expenses during that time. The learned counsel lastly contends that the respondent no. 1 had voluntarily left the petitioner without any justifiable reason, and that respondent no. 1 is quarrelsome in nature, and the maintenance amount awarded is excessive and even more than what was originally sought in the application.

6. On the other hand, the learned counsel appearing for respondent no. 1-wife submits that the respondent no. 1 had sought a consolidated maintenance amount of ₹50,000/- per month for herself and the two minor daughters, based on the assertion that the petitioner earns approximately ₹1,00,000/- per month. It is submitted that in paragraph 11 of the petition under Section 125 of Cr.P.C., the date of separation i.e. 16.09.2023 was specifically mentioned, and the prior litigation history was detailed in paragraph 10. In response to these averments, the petitioner failed to offer any specific denial or furnish a clear disclosure of his actual income. It is argued that the



2025:DHC:5608



petitioner deliberately made vague and evasive responses with respect to his financial status and failed to produce material that could support his claim of limited income. The learned Family Court, after carefully analyzing the affidavit of income and the bank statements placed on record, came to a reasoned conclusion regarding the petitioner's income and financial capacity. It is further contended that the impugned order reflects a meticulous evaluation of the material available on record, and the petitioner's challenge to it is nothing but a frivolous attempt to evade his legal obligation to maintain his wife and minor children. It is submitted that the revision petition is devoid of merit and deserves to be dismissed.

7. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

8. The operative portion of the impugned order 13.09.2024, passed by the learned Family Court is set out below:

“6. Admittedly, at the time of disposal of an application for interim maintenance, this court is bound to consider just an application for interim maintenance, its reply, affidavit of income and assets of both the parties and supporting documents including ITR, Bank Statement, Salary Slip, etc. However, serious allegations are matter of trial and cannot be adjudicated at the time of disposal of this application. In this case, the petitioner no.1 has alleged that she is a house wife and not working, whereas the respondent has annexed certain documents to prove that she has been running a beauty parlor and photographs of a beauty parlor have also corroborated this fact. Admittedly, the Petitioner No. 1 has not disclosed anything about this beauty parlor in her affidavit of income and assets and even her bank statement also has certain entries of amount but most of the entries are for minor amount and have not proved material receipts. It is quite possible that the petitioner



2025:DHC:5608



no.1 has been earning .some amount by her beauty parlor but such amount is not sufficient to prove that she has been earning substantially to maintain all the petitioners, liven otherwise it is a matter of trial as to what actually the petitioner no.1 has been earning or that said earning is sufficient to maintain all the petitioners or not.

7. On the other hand, the respondent has been running a business and has disclosed in his affidavit of income and assets that he has been earning between Rs. 35,000/- and Rs. 40,000/- per month, whereas his bank, statement for the year 2021-23 has proved his substantial earnings, which is definitely much higher than claimed to be earning of the respondent. His bank statement for the period during 01.01.2022 to 31.12.2022 would show that he has repeated entries of regular amounts besides many more entries of substantial amount like, Rs. 10,000/-, Rs. 15,000/-, Rs. 20,000/-, Rs. 40,000/-, Rs. 50,000/-, etc. and all such entries suggest that income of the respondent may not be less than Rs. 1 Lakh pm as claimed by the petitioners. However, the respondent also must have expenses and he has also claimed dependency of his parents besides petitioners. The parents of the respondent are old aged about 67 and 70 years respectively and the petitioners have not disclosed that they have any earning, due to they arc dependents of the respondent. In fact, earning of the respondent is considered on average basis @ Rs. 70,000/- pm, which is divided into 7 shares and 2 shares shall go to the respondent and one share each to his other dependents, who arc 5 in numbers including his parents and three petitioners.

8. Keeping in view of facts and circumstances of the case, the petitioners shall be entitled for consolidated interim maintenance @ Rs. 25,000/- per month besides payment of school fees of both the children by the respondent directly payable to school. Interim maintenance shall be payable from the date of filing of this application and during pendency of this case, payable on IO'*' of each succeeding calendar month.

9. Moreover, ad-interim maintenance already paid in this petition or any interim/ regular maintenance in any other petition shall be subject to adjustment. The observations of this court herein above shall not effect the merit of this case. With these observations, application for interim maintenance is hereby disposed of..”

9. A perusal of the impugned order reveals that the learned



2025:DHC:5608



Family Court has undertaken a reasoned and balanced approach while considering the rival submissions and materials placed on record at the stage of deciding the application for interim maintenance.

10. The petitioner has contended before this Court that the respondent no. 1 (wife) is engaged in running two businesses, i.e. a beauty parlour and a boutique, and has an independent source of income, which has not been properly appreciated by the learned Family Court. However, the record shows that the respondent no. 1, in her affidavit of income and assets, claimed to be a housewife and did not disclose any such income. The learned Family Court has taken note of this inconsistency, and although some photographs of the alleged beauty parlour were placed on record by the petitioner, the Court found that the entries in the respondent's bank account were largely of minor amounts and insufficient to establish that she was earning a substantial income adequate to maintain herself and two minor children. The learned Family Court, therefore, rightly held that the exact quantum of income, if any, derived by the respondent no. 1 from such alleged business activities is a matter to be proved during trial and cannot be conclusively determined at the interim stage.

11. In this regard, this Court also takes note of the following observations of the Hon'ble Supreme Court in case of **Rajnesh v. Neha**: (2021) 2 SCC 324:



2025:DHC:5608



“(c) Where wife is earning some income

The Courts have held that if the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband. The Courts have provided guidance on this issue in the following judgments.

In *Shailja & Anr. v Khobbanna*, this Court held that merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court. The Court has to determine whether the income of the wife is sufficient to enable her to maintain herself, in accordance with the lifestyle of her husband in the matrimonial home. Sustenance does not mean, and cannot be allowed to mean mere survival.

In *Sunita Kachwaha & Ors. v Anil Kachwaha*, the wife had a postgraduate degree, and was employed as a teacher in Jabalpur. The husband raised a contention that since the wife had sufficient income, she would not require financial assistance from the husband. The Supreme Court repelled this contention, and held that merely because the wife was earning some income, it could not be a ground to reject her claim for maintenance.

The Bombay High Court in *Sanjay Damodar Kale v Kalyani Sanjay Kale* while relying upon the judgment in *Sunita Kachwaha* (supra), held that neither the mere potential to earn, nor the actual earning of the wife, howsoever meagre, is sufficient to deny the claim of maintenance...”

12. As regards the income of the petitioner, although he claimed to earn only ₹30,000/- to ₹40,000/- per month, the learned Family Court thoroughly examined his bank statements for the period from 01.01.2022 to 31.12.2022, which revealed repeated credit entries of regular and substantial amounts such as ₹10,000/-, ₹15,000/-, ₹20,000/-, ₹40,000/-, ₹50,000/-, and more. The Court, on the basis of this documentary evidence, arrived at a *prima facie* assessment that the petitioner’s income is reasonably higher than what he had stated,



2025:DHC:5608



and accordingly took his average income to be ₹70,000/- per month. This estimation, at the stage of interim maintenance, cannot be said to be arbitrary or based on conjectures or surmises.

13. The learned Family Court has also considered the petitioner's submissions regarding financial liabilities and dependents. Specifically, the Court has taken note of the fact that the petitioner's elderly parents (aged about 67 and 70 years) are dependent on him, and has accordingly apportioned his assessed income into seven equal shares – two shares being retained by the petitioner and one share each allotted to his five dependents, namely, his two parents, his wife, and his two minor daughters.

14. Further, the learned Family Court has passed the impugned order for consolidated interim maintenance of ₹25,000/- per month, in addition to directing the petitioner to directly bear the school fees of the two minor children. This amount has been made payable from the date of filing of the application. The learned Family Court has also specifically observed that any interim maintenance already paid under the present or other proceedings shall be adjusted, and that the present determination is only prima facie and shall not affect the merits of the main petition.

15. This Court finds no infirmity in the approach or reasoning adopted by the learned Family Court. The observations made in paragraphs 7 and 8 of the impugned order clearly show that the Family Court has not only examined the income of both parties but



2025:DHC:5608



also dealt with the issue of dependency and proportionality of expenses, before arriving at a fair quantum of interim maintenance.

16. It is settled law that at the stage of interim maintenance, the Court is only required to make a *prima facie* assessment of the financial status of the parties, pending adjudication of the main petition. In the present case, the order passed by the learned Family Court is neither perverse nor arbitrary, and in the absence of any manifest illegality or material irregularity, this Court is not inclined to interfere with the same in the exercise of its revisional jurisdiction.

17. However, it is clarified that in the event the learned Family Court, upon final adjudication of the main petition under Section 125 Cr.P.C., arrives at a finding that the respondents (wife and children) are entitled to a lesser amount of maintenance than what is presently being paid as interim maintenance, the excess amount paid by the petitioner shall be liable to be adjusted against future maintenance, as already observed by the learned Family Court.

18. In view of the above, the present petition, along with pending application, if any, stands disposed of.

19. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

20. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 15, 2025/zp