



2025:DHC:11152



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

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Judgment reserved on: 02.12.2025
Judgment pronounced on: 10.12.2025
Judgment uploaded on: 10.12.2025

+ **CRL.REV.P.(MAT.) 114/2024 & CRL.M.A. 35549/2024**

PARWEZ KHAN

.....Petitioner

Through: Mr. Firoz Iqbal Khan, Mr.
Mohammad Faizan, Mr. Sajid
Ahmed, Advocates

versus

SHABNAM ARA & ANR.

.....Respondents

Through: None.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present revision petition, the petitioner seeks setting aside of the ad - interim maintenance order dated 16.07.2024 passed by the learned Judge Family Court-01, South, Saket Court, New Delhi in MT case no. 323/2023 in case titled as '*Shabnam Ara v. Parwez Khan.*'

2. Briefly stated, the facts of the present case are that the marriage between respondent no.1 and the petitioner had been solemnized on 22.06.2018, as per Muslim rites and ceremonies. The



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said marriage had been duly consummated, and one daughter, i.e. respondent no.2 herein, had been born out of the wedlock. It had been alleged by the respondent no.1/wife, in her petition under Section 125 of Cr.P.C., that while she had been happy in the matrimonial relationship, the petitioner/husband had been dissatisfied with the marriage as he had been expecting a substantial dowry from her family. It had further been stated that the respondent no.1/wife is a housewife having no independent source of income. It was also stated that she has been taking care of her minor school-going daughter, aged about three and a half years. The learned Family Court, after considering the respective financial and social status of both parties, their income and expenditure, and the overall circumstances of the case, had *vide* order dated 16.07.2024, directed the present petitioner/husband to pay a sum of ₹15,000/- per month to the respondent no.1/wife and ₹15,000/- per month to the respondent no.2/minor child as interim maintenance under Section 125 of Cr.P.C., from the date of filing of the application, i.e. 19.08.2023, till disposal of the petition. The learned Family Court had further directed that the arrears of interim maintenance be cleared within three months in three equal installments and that monthly payments be made by way of demand draft or bank transfer to the account of the respondent no.1/wife on or before the 10th day of each calendar month. The petitioner husband is before this Court assailing the said order.

3. The learned counsel for the petitioner argues that the learned



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Family Court had erred in awarding interim maintenance to the respondent-wife and the minor child without appreciating the facts and circumstances of the case in their proper perspective. It is submitted that the respondent no.1/wife is a well-educated woman holding a Master's degree in Business Administration and is fully capable of securing gainful employment to support herself. However, the learned Family Court overlooked this aspect and proceeded to grant maintenance, thereby encouraging undue dependency rather than promoting self-sufficiency. It is further contended that the petitioner/husband has several financial obligations, including the responsibility of caring for his ailing and elderly parents, as well as extending moral and emotional support to his divorced sister and her child, which the Family Court failed to account for. In view of the above submissions, it is prayed that the impugned judgment dated 16.07.2024 passed by the learned Family Court be set aside.

4. The learned counsel for the respondents argues that the order of the learned Family Court is just, reasonable, and based on a proper appreciation of the facts. It is submitted that the respondent no.1/wife has no independent source of income and is medically unfit to undertake employment, while also being responsible for the care of her minor daughter, aged about three and a half years. The petitioner, on the other hand, is gainfully employed and has sufficient means to maintain his legally wedded wife and child but has willfully neglected to do so. The contention that the wife is educated and can earn is misconceived, as mere possession of a degree cannot



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substitute for actual employment, particularly when she is suffering from health issues. The learned Family Court has rightly considered the financial and social status of both parties and awarded a modest and reasonable amount of Rs. 15,000/- each to the wife and child. The plea of the petitioner regarding his financial obligations towards his parents and sister cannot override his statutory duty to maintain his wife and child. It is therefore prayed that the present petition be dismissed, and the impugned order dated 16.07.2024 be upheld.

5. This Court has **heard** arguments addressed by both the sides, and has perused the material on record.

6. The petitioner, before this Court, contends that the amount awarded by the learned Family Court towards interim maintenance is excessive, that his obligations toward his aged parents and divorced sister were not appreciated, and that the wife, being well-educated and qualified, is capable of earning for herself. The respondents, on the other hand, support the order, contending that it is based on correct appreciation of facts and law and that the wife, being without income and suffering from health ailments, is dependent on maintenance for her sustenance and that of the minor child.

7. The issue that arises for consideration before this Court is whether the learned Family Court erred in its approach while granting interim maintenance and whether the quantum so fixed warrants any interference at this stage. The scope of interference with an interim maintenance order under Section 125 Cr.P.C. is narrow and limited to correcting patent illegality, perversity, or manifest unreasonableness



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in the order.

8. It is well settled that the object of Section 125 of Cr.P.C. is to prevent destitution and vagrancy and to ensure that a wife, child, or parent, who is unable to maintain themselves, is provided with a reasonable sum for sustenance in proportion to the means of the person who has an obligation to maintain them. At the interim stage, the Court is not expected to conduct a detailed trial-like inquiry but to take a *prima facie* view of the financial capacity of the husband and the reasonable needs of the dependents. While the educational qualification or employability of the wife may be a relevant factor, the more significant question is whether she presently has an independent and sufficient source of income to maintain herself with dignity in accordance with the standard of living she enjoyed in the matrimonial home. The law equally recognises that the husband's obligations toward his legally dependent family members are to be considered, though moral obligations alone, such as toward siblings who have other legal recourse for maintenance, cannot dilute his statutory duty toward his wife and minor child.

9. This Court notes that the learned Family Court had assessed the income of the petitioner/husband at approximately ₹60,000/- per month for the purpose of determining interim maintenance. Upon perusal of the income affidavit filed by the petitioner before the learned Family Court, this assessment appears to be accurate, as the petitioner himself has disclosed an admitted monthly income of ₹59,670/-. Therefore, this Court finds no reason to disturb the finding



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of the learned Family Court with regard to the petitioner's income.

10. Insofar as the dependents of the petitioner are concerned, the record reveals that the father of the petitioner is a retired government servant who is drawing a monthly pension of ₹17,000/-. The learned Family Court has rightly observed that such an individual, who continues to receive a regular pension, cannot be treated as financially dependent upon his son for day-to-day sustenance. While the petitioner may have a moral duty to assist his father, such voluntary and sentimental obligations cannot dilute his statutory duty under Section 125 of Cr.P.C. to maintain his legally wedded wife and minor child.

11. As regards the petitioner's divorced sister, this Court concurs with the finding of the learned Family Court that she cannot be considered a dependent for the purpose of calculating maintenance liability. Being divorced, she possesses a legal remedy to claim maintenance from her former husband under the provisions of the Cr.P.C. or the relevant personal law, as the case may be. Any assistance rendered by the petitioner to his sister, therefore, would fall within the realm of moral and familial duty, but not a legal dependency enforceable under Section 125 of Cr.P.C.

12. This Court further notes that in *Anurita Vohra v. Sandeep Vohra*: 110 (2004) DLT 546, this Court had laid the well-recognised principle of a 'family resource cake' wherein it was held that the income of the earning member which acts a family resource cake should be equitably distributed among family members, with two



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shares allocated to the earning member, to account for his personal and professional expenses, and one share each to the dependents.

13. Applying the aforesaid principle to the present case, where the petitioner's monthly income is assessed at ₹59,670/-, the total notional income may be divided into four shares — two shares for the petitioner himself, and one share each for the wife and the minor child. Each share thus approximately comes to ₹14,900/-, which fairly represents the petitioner's capacity and the dependents' reasonable needs, given their respective circumstances.

14. The learned counsel for the petitioner had also argued that he had taken a loan of Rs. 6 lakh, for which has to pay a month EMI, and the same must be deducted from his income computation. As far as the contention regarding payment of EMI of a loan is concerned, the same is not a statutory deduction or liability, as already observed by this Court in the case of *Sodan Singh Rawat v. Vipinta: Crl.Rev.P.(MAT.) 48/2024*, and *Abhinav Kumar v. Swati & Anr.: Crl. Rev.P. 211/2024*. It is well settled that such voluntary financial obligations, especially when incurred for personal loan cannot be considered as mandatory deductions while determining maintenance. Maintenance cannot be defeated on account of EMIs that the petitioner is paying towards any property.

15. This Court accordingly observes that the computation and approach adopted by the learned Family Court are consistent with law. However, having regard to the tender age of the minor child, who is only three and a half years old, the quantum of ₹15,000/-



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awarded as interim maintenance to the child may be marginally reduced to ₹10,000/- per month. The amount of ₹15,000/- per month awarded to the wife is found to be just, reasonable, and commensurate with her medical condition, lack of independent income, and the standard of living she was accustomed to in the matrimonial home.

16. Accordingly, while affirming the reasoning and findings of the learned Family Court, this Court modifies the impugned order only to the limited extent of reducing the interim maintenance payable to the minor child to ₹10,000/- per month. The rest of the directions contained in the order dated 16.07.2024, including those relating to arrears, schedule, and mode of payment, shall remain unaltered.

17. Accordingly, the present petition alongwith pending application, if any, is disposed of in above terms.

18. It is, however, clarified that nothing expressed hereinafter shall tantamount to an expression on the merits of the case.

19. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
DECEMBER 10, 2025/zp