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

\+ CRL.REV.P.(MAT.) 123/2025 & CRL.M.As. 8110-8111/2025

ETIKA GARG & ANR .....Petitioners

Through: Ms. Santosh Dixit, Advocate with Petitioner No. 1 (in-Person).

versus

STATE OF N.C.T. OF DELHI & ANR. .....Respondents

Through: Mr. Satinder Singh Bawa, APP for State.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

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

% **18.03.2025**

1. The present revision petition filed under Sections 438 and 442 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] is directed against the judgment dated 24th July, 2023 passed by the Family Court- 01, Shahdara, Karkardooma Courts in MT No. 484/2021 titled ***"Etika Garg v. Vipin Kumar"***. Through the said order, the Family Court, on a petition filed under Section 125 of the Code of Criminal Procedure, 1973,[2] awarded interim monthly maintenance of INR 30,000/- to Petitioner No. 2, the minor son of Petitioner No. 1 and Respondent No. 2.

2. Briefly stated, the facts of the petition are as follows:

2.1 Petitioner No. 1 and Respondent No. 2 got married on 16th January, 2013. From this marriage, a child (Petitioner No. 2), presently a minor, was

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

born. Subsequently, due to persistent temperamental discord, Petitioner No. 1 withdrew from her matrimonial home on 24th March, 2021, and since then has been residing separately.

2.2 Consequently, Petitioner No. 1 instituted proceedings under Section 125 Cr.P.C., before the Family Court, seeking maintenance for herself and Petitioner No. 2. Upon consideration of the material placed on record, the Family Court directed Respondent No. 2 to pay interim maintenance of INR 30,000/- per month exclusively to Petitioner No. 2.

3. Aggrieved by this decision, the Petitioners have filed the instant petition, seeking an enhancement of the maintenance amount on the following grounds:

3.1 Petitioner No. 1, a financially dependent spouse without any independent income or asset, is wholly reliant on financial assistance from her parents for sustenance and daily needs for herself and Petitioner No. 2. Contrarily, Respondent No. 2 leads an affluent lifestyle, serving as Deputy General Manager (Civil) at NHRSCL with a substantial monthly salary of INR 3,00,000/-. Moreover, Respondent No. 2 owns a residential property generating rental income of INR 10,000/- per month and derives an additional annual income of approximately INR 9 lakhs from agricultural land.

3.2 Respondent No. 2 has deliberately concealed his actual income before the Family Court, presenting inflated and fictitious deductions from his gross salary to circumvent his statutory obligation to maintain the Petitioners adequately.

3.3 Respondent No. 2 bears a legal obligation to provide adequate maintenance, given Petitioner No. 1's status as his legally wedded wife and

Petitioner No. 2 as their minor child. They contend that an amount of INR 1 lakh per month is the requisite sum to comfortably meet their basic living needs and associated expenses.

3.4 The Family Court erred by assigning undue significance to certain credit transactions reflected in Petitioner No. 1's bank accounts, as these accounts were entirely under Respondent No. 2's operational control. Given his status as a government employee, Respondent No. 2 could not legitimately establish a business entity in his own name. Therefore, he established a firm titled 'Elite Engineers', ostensibly in the name of Petitioner No. 1, although the mobile number and account management remain exclusively under Respondent No. 2's dominion.

3.5 Similarly, other transactions noted in Petitioner No. 1's accounts represent funds deliberately transferred by Respondent No. 2 from his personal account. Furthermore, the credits appearing from Zerodha Brooking Limited represent investments solely managed by Respondent No. 2 in stock market operations. Thus, Respondent No. 2 has intentionally obfuscated the true nature of these financial transactions before the Family Court.

3.6 The Family Court mistakenly assessed Respondent No. 2's monthly income as INR 96,000/-, disregarding his own disclosures made before the Court, revealing an actual monthly income of INR 1,24,702/- for the year 2022.

4. The Court has duly considered the aforenoted contentions, but remains unpersuaded. It bears emphasizing that the impugned order addresses merely an interim arrangement of maintenance—a determination that remains open to revision upon presentation of comprehensive evidence

at the stage of final adjudication.

5. At this interim stage, the Family Court necessarily relied upon disclosures made by the parties through their affidavits and supporting documents. However, it is well settled that Courts are neither confined nor restricted to a superficial examination of such claims. Indeed, Courts bear an affirmative duty to rigorously probe beneath any financial illusion or misrepresentation a litigant might seek to create. As has been observed in numerous judicial precedents relating to matrimonial disputes, there is a tendency for parties to understate or conceal their actual income. In such situations, even ITRs may not always provide an accurate representation of a party's true financial circumstances.[3] In these circumstances, where deliberate suppression or unexplained concealment emerges, the Courts are justified to draw an adverse presumption against that party, presuming that honest disclosure would likely have been detrimental to their case.[4]

6. Applying the aforenoted principles, the Family Court closely scrutinised the evidence and estimated Respondent No. 2's monthly income to be INR 96,000/-, and balanced this assessment against the immediate financial requirements of the Petitioners, thereby awarding an interim maintenance of INR 30,000/- to Petitioner No. 2. Pertinently, the Family Court observed that the Petitioners had concealed material facts from the Court. It was noticed that Petitioner No. 1 had failed to provide any explanation for the repeated transfer of substantial amounts into her bank accounts. The Court highlighted Petitioner No. 1's omission to disclose credit card payments that were clearly traceable through banking statements.

[3] ***Kiran Tomar v. State of U.P.***, 2022 SCC OnLine SC 1539.
[4] ***Bharat Hegde v. Saroj Hegde***, 2007 SCC OnLine Del 622.

Moreover, Petitioner No. 1 had filed her Income Tax Returns,[5] which revealed an income of INR 2,41,269/- for the financial year 2019-20, which increased to INR 2,96,000/- in 2020-21. However, she subsequently ceased filing the ITRs for the following years.

7. Thus, the Family Court, after reviewing the evidence and considering the relevant facts, was right in concluding that Petitioner No. 1 was concealing her actual income and financial status:

> *"5. Petitioners have alleged that the petitioner no. 1 is not earning and is dependent upon her parents but she is maintaining her son / petitioner no. 2, whereas documents filed by the petitioner no. l have reflected otherwise. Admittedly, petitioner no. l is not paying any rent and residing in a rent free accommodation, whereas statement of bank account of the petitioner no. l maintained with ICICI Bank has reflected that she has substantial transfer of amounts in her bank account. For example, Rs. 25,000/- deposited on 09.04.2020 towards investment, Rs. 82,543/received through salary transfer on 22.05.2020, Rs. 12,000/- on 02.06.2020 through brooking, Rs. 50,000/- on 02.07.2020 again through brooking, Rs. 40,000/- twice on 23.09.2020 from Elite Engineers, Rs. 60,000/- on 25.03.2021 from Elite Engineers and Rs. 35,000/- on 18.09.2021. The other bank account with IDBI Bank is pertaining to Elite Engineers and has deposits of Rs. 50,000/- on 2l/03/2018 and 25/03/2018 respectively. There arc many other repeated' entries of amount of Rs. 10000/- on a number of occasions and cash transactions of substantial amounts are reflected in the account like amounts of Rs. 1,00,000/-, Rs. 70,000/-, Rs. 60,000/- Rs.55,000/- and Rs. 45,000/-. Another bank account with Union Bank of India has substantial cash of Rs. 4,22,227/-. In fact, such entries arc unexplained throughout arguments. Even petitioner has credit card and its payment is reflected in bank account but it is not disclosed in affidavit.*
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> *6. Not only this, she has also filed ITRs for the financial years 2019-20 for Rs. 2,41,269/- which increased to Rs. 2,96,000/- in the year 2020-21, but thereafter stopped to file ITRs for the reason best known to her. It is beyond explanation if she is not working and doing nothing despite having high qualification like MBA, they how she is running business in the name Etika Engineers and maintaining so many bank accounts having unexplained entries. All such facts pave proved that the petitioner no. l not disclosed the correct facts and has concealed material facts*

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[5] "ITRs"

from this court regarding her earnings and status. Any party who has not approached to the cou11 with clean hands and has concealed the material facts is not entitled for relief. In view of the financial status of the petitioner no. l as reflected from the ITR.s and bank accounts, it may not be said that she is able to maintain herself and is not entitled for interim maintenance. However, petitioner no. 2 is son of the parties and school going boy and is definitely entitled for maintenance

7. Petitioners have claimed that the respondent is earning more than Rs. 2 Lacs per month and is liable to pay maintenance. ITR of the respondent for the year 2022-23 has disclosed his total annual income @ Rs. 14,26,030/- with tax liability of Rs. 2,52,841/-. As such, effective and net income of the respondent comes to Rs. 11,73,189/-. However, he has to pay EMI of Housing Loan for Rs. 19581/- and also EMI of car loan for Rs.13,042/-. Petitioner no.1 is co-applicant of housing loan and this loan was also for the benefits of the petitioners also and expenses of car are also necessity."

8. In view of the substantial and recurrent credits reflected in the bank accounts of Petitioner No. 1, the conclusion reached by the Family Court that, she possessed sufficient independent means to sustain herself, is entirely justified and calls for no interference at this interim stage. The claim of Petitioner No. 1, attributing control of the bank account associated with Elite Engineers exclusively to Respondent No. 2, stands contradicted by the incontrovertible fact that she is the registered proprietor of that entity. Moreover, it is pertinent that this proprietorship was actively utilized by Petitioner No. 1 for transactional banking activities, reflecting not mere passive holding, but active engagement with financial matters.

9. Further, the significant deposits credited into her account, including payments amounting to INR 40,000/- and INR 60,000/- from Elite Engineers, as well as periodic credits through broking activities, remain conspicuously unexplained by her. Her claim that Respondent No. 2 single-handedly managed Elite Engineers' account becomes tenuous in the absence of any evidence to substantiate such control. Additionally, funds regularly

credited from Zerodha Broking Limited, admittedly pertaining to investments, reinforce the inference that Petitioner No. 1 maintained access, directly or indirectly, to considerable financial resources. Her decision to discontinue filing Income Tax Returns after reporting income of INR 2,96,000/- for FY 2020-21 further casts doubt on her assertions of complete financial dependence and underscores her apparent intention to obscure the genuine scope of her financial capabilities. Considering all these facts collectively, the Family Court concluded that Petitioner No. 1 had failed to disclose accurate information and had concealed material facts regarding her income and financial status. In light of these substantial discrepancies and the evident reluctance to provide a complete financial picture, the Family Court appropriately declined the relief as sought.

10. For the foregoing reasons, the Court finds no arbitrariness, error or perversity in the Family Court's decision that would merit any intervention by this Court. The Family Court appropriately considered the relevant facts and circumstances for awarding interim maintenance to Petitioner No. 2. As already emphasised, the interim maintenance awarded remains provisional in nature, intended to subsist only until the Family Court arrives at a definitive determination upon evaluating the comprehensive evidence presented by both parties.

11. Accordingly, the petition is dismissed, along with any pending applications.

SANJEEV NARULA, J

MARCH 18, 2025/as