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

+ **CRL.REV.P.(MAT.) 6/2025**

POOJA SWAMI

.....Petitioner

Through: Ms. Garvita Jain, Advocate

versus

MURARI SWAMI

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

21.05.2025

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1. The present petition filed under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is directed against order dated 1st October, 2024, passed by the Family Court, Tis Hazari Courts, New Delhi in Mt. No. 279/2023, titled **“Pooja Swami v. Murari”**. By the said order, the Family Court dismissed the Petitioner's request for grant of interim maintenance.

2. Briefly stated, the facts of the case, leading to the filing of the present petition, are as follows:

2.1. The Petitioner and the Respondent got married on 13th March, 2016 as per Hindu rites and ceremonies. From this marriage, a son was born on 22nd November, 2017, who is presently residing with the Respondent. However, on account of temperamental differences and other reasons, the Petitioner and the Respondent separated from each other in April-May, 2023.

2.2. The Petitioner alleges that she was subjected to harassment and cruelty by her husband (the Respondent) and her in-laws, who persistently

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demanded dowry and inflicted torture. She further accuses the Respondent of being an alcoholic, and claims that he coerced her into bearing a child against her will, which subsequently led to numerous health complications.

2.3. The Petitioner filed an application before the Family Court, seeking grant of interim maintenance amounting to INR 1,50,000/- per month from the Respondent. On the other hand, the Respondent denied all the allegations levelled by the Petitioner. The Family Court, after considering the submissions of both parties as well as the material placed on record, dismissed the applicant *vide* impugned order dated 1st October, 2024, to the following effect:

“10. Having heard the submissions and perused the record, this Court is of the view that petitioner’s interim maintenance application ought not be allowed. The material and the documents on record clearly reflect that petitioner deserted her husband and her son and has been living with some male (one Mr. Pankaj) in Gandhi Vihar, Delhi. This is a very very unique case where petitioner is having grievances against her own paternal family members. In the petition, she has levelled allegations against her own brother. That apart, it is rather very very strange that her own paternal family members have given in writing (and copy of which documents on record) that petitioner Ms. Pooja had eloped 26.05.2023 with one Pankaj and has been living in a live-in relationship with said Pankaj in Delhi. Petitioner is also a signatory to this document. Not only this, petitioner’s own father has given an &oft affidavit 24.06.2024 to this Court and therein he states that his son-in-law (respondent) is living with him and working under him; that his daughter (petitioner Pooja) had eloped with one Ashish on 05.09.2020; that she again eloped with one Pankaj on 26.05.2023 and has been residing with said Pankaj ever since then. That apart, petitioner’s friend Pankaj had himself given in writing to the police in Jaipur (and copy of which document is on record), stating therein that he had brought petitioner Pooja with her consent to Delhi and that she wishes to live with him and that he is taking her responsibility. Further, petitioner herself has placed on record a police document (chowki Gandhi Vihar, Police Station Timarpur, Delhi). This police document is a statement of petitioner Pooja made to police and wherein she herself states that on 26.05.2023 she had left the society of her family members and reached Delhi with her friend Pankaj son of Anil; that she left her house of her

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own accord; that she does not want to stay with her family members/her husband; that she wants to spend rest of her life with her friend Pankaj.

11. It is also very very strange that petitioner's elder sister Ms. Maya got married in the very same family to respondent's elder brother and they have been blessed with three children. Petitioner's elder sister Ms. Maya seems to be having no grievances whatsoever against her in-laws.

12. It is also very strange that petitioner left behind her son aged 6 years and is residing with her friend Pankaj. It seems that she has no feelings and no care and concern for her son.

13. Petitioner has levelled innumerable allegations against her husband and in-laws. However, there is not a single document to support her allegations. There are no medical documents to support her allegation that she was once hospitalised due to beatings given by her husband. There is not a single contemporaneous police complaint against her husband and in-laws. To the contrary, her own family members and her own father in the document(s)/affidavit filed on record state that respondent has done no wrong and that it was in fact the petitioner who is at fault.

14. Out of the several thousand cases for grant of maintenance which are sub judice before this Court, this case has to stand out for the sheer uniqueness of the facts, material and the allegations.

15. It appears to this Court from the material on record that petitioner has deserted her husband and her son for no apparent reason. She has been living in a live-in relationship with Pankaj for the last more than an year. Her case seems to be squarely hit by section 125 (4) of CrPC.

16. Petitioner's application for interim maintenance is turned down. Her application stands dismissed."

3. Aggrieved, the Petitioner has invoked the revisional jurisdiction of this Court, seeking setting aside of the impugned order. A perusal of the impugned order indicates that the Family Court declined the Petitioner's request for interim maintenance on the grounds that she had purportedly deserted the Respondent and their son, and thereafter eloped and commenced a live-in relationship with a third person.

4. Counsel for the Petitioner submits that the Petitioner was never afforded an opportunity to present her version with respect to the aforesaid observations made in the impugned order. She further denies that the Petitioner was in a live-in relationship with any person.

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5. In the opinion of the Court, the impugned order addresses merely an interim arrangement of maintenance, which is, by its very nature, a temporary arrangement meant to operate during the pendency of proceedings. Such orders are provisional and open to variation upon a comprehensive evaluation of evidence at the final stage. At this juncture, the Trial Court was required only to make a *prima facie* assessment of the matter. Accordingly, the Trial Court, after considering the material on record, appropriately drew an inference against the Petitioner based on an affidavit submitted by her own father, stating that the Respondent was residing with him and working under him. He further categorically asserted that the Petitioner had eloped with a third person not once, but on multiple occasions, and has since been living with that individual. In light of these circumstances, the Court is of the view that the reasons for denying the award of maintenance are based on cogent evidence and the material placed on record. Consequently, the Trial Court has rightly concluded that the Petitioner's case is squarely covered under Section 125(4) of the Cr.P.C.

6. In view of the foregoing facts and circumstances, the Court is not inclined to interfere with the impugned order. Needless to state that the observations made in the impugned order are solely for the purpose of determining interim relief. The parties shall be at liberty to adduce evidence to support their case before the Family Court, which shall be taken into consideration by the Court, at the at the stage of final adjudication.

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7. With the above directions, the petition is disposed of along with pending application(s), if any.

SANJEEV NARULA, J

MAY 21, 2025/ab

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