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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P.(MAT.) 564/2025, CRL.M.A. 37220/2025 (stay)
DARPAN CHAUDHARYPetitioner

Through: Mr. Rohit Khurana, Advocate.

versus

NISHTHA SACHDEVARespondent

Through: Mr. Vishesh wadhwa, Adv., Ms.
Swadha Gupta, Adv., Ms. Shubhangi
Singh, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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12.12.2025

CRL.REV.P.(MAT.) 564/2025

1. Petition under Section 438 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner for setting aside the Order dated 03.09.2025 of the learned Principal Judge, Family Court, North Rohini, Delhi, dismissing the Application of the Petitioner for setting-aside the *ex-parte* Order dated 23.04.2024 to permit the Petitioner to participate in the proceedings in the Petition under Section 125 Cr.P.C.

2. It is submitted that the Petitioner got married to the Respondent on 12.02.2015 and had one son from their wedlock on 12.09.2016. However, owing to the medical discord since December, 2018, the parties have separated and there are multiple litigations, which have been initiated against the Petitioner.

3. The Respondent had filed a Petition under Section 125 Cr.P.C. before the Principal Judge, Delhi and the matter was listed on 23.04.2024. However, due to inadvertence on the part of the clerk of the Petitioner's



erstwhile counsel, the next date was wrongly noted in the counsel's diary. Consequently, neither the Petitioner nor the counsel could appear before the Court on 23.04.2024 on which date, the Petitioner was proceeded *ex-parte*. The Petitioner thereafter filed an Application dated 14.08.2024 for setting-aside of the *ex-parte* Order, which got listed before the learned Trial Court on 28.09.2024. The Reply to the Application was duly filed on behalf of the Petitioner/Respondent herein but the Application was dismissed *vide* Impugned Order dated 03.09.2025.

4. The Impugned Order is challenged on the grounds that the non-appearance on 23.04.2024 was only on account of the inadvertence and was not intentional or deliberate. He had been diligently appearing on all dates except that particular date. If the *ex-parte* Order is not set-aside, it would cause serious miscarriage of justice. It is, therefore, submitted that the Impugned Order be set-aside and the Petitioner be directed to participate in the proceedings under Section 125 Cr.P.C.

5. On advance Notice, learned counsel for the Complainant/Respondent has appeared and has submitted that the conduct of the Petitioner as reflected in the various Order-Sheets, show that he had been intentionally avoiding the appearance in the Petition under Section 125 Cr.P.C. It is submitted that the Execution Petition arising out of non-payment of interim maintenance is being listed on the same date as the main Petition but because there are arrears of more than Rs.85 Lakhs, which are due and payable, the Petitioner intentionally has been avoiding appearance in the Court. The absence on 23.04.2024 was also only to avoid the payment of maintenance. There is no cogent reason given for non-appearance and the Application has been rightly dismissed.



6. **Submissions heard and the record perused.**

7. The record shows that the Petitioner had been appearing regularly and it was only on 23.04.2024 that he failed to appear. He thereafter appeared on 06.06.2024 and filed the Application on 14.08.2024 though, it got listed on account of objections due to e-filing. The Application got listed for the first time before the learned Trial Court on 28.09.2024. It is being rightly observed by the learned Trial Court that the Application failed to disclose any cogent reason so much so the date on which the Petitioner was proceeded *ex-parte*, was indicated as 06.07.2024, which was incorrect.

8. Though, it is correct that the Application had been prepared in the most casual manner without even disclosing the facts but it cannot be overlooked that for the effective adjudication of the right of the Complainant to get the maintenance, it is in the interest of justice that the Petitioner is allowed to participate in the proceedings.

9. In the interest of justice, the Impugned Order dated 03.09.2025 is hereby set-aside, subject to cost of Rs.25,000/-, to be paid to the Respondent/Complainant, before the next date before the learned Trial Court.

10. Learned counsel for the Petitioner has assured that he would complete the cross-examination of the Complainant, on the next date before the learned Judge, Family Court.

11. The Petition is allowed accordingly and disposed of. Pending Application(s), if any, also stands disposed of.

NEENA BANSAL KRISHNA, J

DECEMBER 12, 2025/RS