



\$~45

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

% ***Date of decision: 16th January, 2025***

+ **CRL.A. 49/2025 & Crl.M.A. 1111/2025**

ANURAG GUPTA

.....Appellant

Through: Mr. Aditya Aggarwal & Ms Pooja Roy, Advocates

Versus

ARNIKA GUPTA

.....Respondent

Through: Mr. Ravin Roy, Advocate through VC

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

Crl.M.A. 1111/2025 (for exemption)

Allowed, subject to just exceptions.

Application is disposed of.

CRL.A. 49/2025

1. The present Appeal under Section 19(1) read with Section 19(4) of the *Family Courts Act, 1984* has been filed by the Appellant seeking setting aside of Order dated 25.11.2024 passed by the learned Family Court, whereby he has been directed to pay *ad interim maintenance* of Rs. 30,000/- per month w.e.f. November, 2024 to Respondent-wife in proceedings under Section 125 of the *Code of Criminal Procedure, 1973* ('Cr.P.C.' *hereinafter*)

2. *The main ground of challenge* is that the matter was never listed for hearing nor was any Application or request made for grant of ad interim



maintenance, despite which the Order has been made pending consideration of *Interim Maintenance Application*.

3. *Learned counsel for Appellant* submits that Respondent is a Judicial Officer and getting salary of approximately Rs.1,65,000/- per month. Though the Appellant-husband at one point of time was employed and getting salary of Rs. 4,00,000/- per month, but his job got terminated in May, 2023 and since then he has not been able to secure any job. Considering that Appellant has absolutely no source of income and is dependent upon his parents, he is not in a position to pay any *ad interim maintenance*.

4. Further, the Appellant is aggrieved by the observations made by the learned Family Judge that “*it appears that the averments made by the respondent in the affidavit qua his employment is not correct*”. It is submitted that this averment is without any basis and has been incorrectly made by the learned Family Judge.

5. *Learned Counsel for the Appellant* has referred to the Bank Statements pointing out a credit entry of Rs.3,64,000/- approximately which shows that the Respondent has a much higher income than what has been stated in her affidavit. Therefore, it is argued that the impugned Order dated 25.11.2024 is bad in law and is liable to be set aside.

6. *Learned Counsel for the Respondent*, who has appeared on advance Notice, submits that the same Bank Statement reflects that the Respondent has been getting a salary of approximately Rs.1,05,056/- per month. At times, higher amount is credited only on account of some arrears of enhanced salary because of Pay Commission recommendations. It is



submitted that there is no ground to interfere in the impugned Order and the Appeal deserves to be dismissed.

7. Submissions heard and Record Perused.

8. Admittedly, the parties had got married on 28.02.2017 and on 02.01.2020 a daughter was born from their wedlock. However, matrimonial disputes arose and they started living separately since 08.10.2020.

9. The Respondent-Wife filed a Petition under Section 125 Cr.P.C. seeking Maintenance. Affidavits of Income were filed by both the sides and while matter was pending consideration for grant of interim maintenance, the learned Family Judge observing that there is delay in disposal of the Interim Maintenance Application, granted *ad interim maintenance* in the sum of Rs.30,000/- per month.

10. The *first grievance* of the Appellant-husband is that though the matter was neither listed for hearing on *ad interim maintenance* nor any request was made by the Respondent, despite which the impugned Order granting *ad interim maintenance*, has been passed.

11. This argument does not have merit for the simple reason that the matter was being considered for interim maintenance, which was taking time on account of production of documents by the Petitioner, on which account *ad interim maintenance* is granted which obviously would merge in the Interim Maintenance Order which would eventually be passed after hearing the Parties. The very nature of relief warrants a pragmatic approach in such matters which has been duly adopted by the Ld. Judge.

12. The *second objection* raised by the Appellant is that the Respondent is a Judicial Officer and her Bank statement reflects that she is getting salary



of about Rs.3,50,000/- per month.

13. Though the Appellant was working at one point of time and was earning Rs.4,00,000/- per month but due to matrimonial disputes, he has not been able to continue in his job. Moreover, he made certain investments in Shares, which resulted in losses. He claims to have become bankrupt and has no money even to sustain him and his expenses are being borne by his father. He claims to be unemployed since April, 2023 and has no money in his account. The Appellant, who is present before this Court, has submitted that he would like to keep his daughter like a Princess, but he has limited financial capacity.

14. It has been rightly pointed out by learned Counsel for the Respondent that from her bank statement it is evident that her salary was earlier Rs.1,00,000/- per month and now, she is getting Rs.1,65,000/- per month. However, the expenses of her daughter are approximately Rs.1,00,000/- per month and the Appellant, being a father, has the responsibility to provide maintenance for the welfare of the child.

15. At this stage, it is pertinent to mention that the impugned Order dated 25.11.2024 is only an *ad interim maintenance* Order and the detailed rival contentions of the parties shall be duly considered by the learned Family Court at the time of adjudication of the Interim Maintenance Application as well as at the time of final disposal of the Petition under Section 125 Cr.P.C. The *ad interim maintenance* is granted only for sustenance during pendency of the Petition and the learned Family Court in its wisdom has rightly granted *ad interim maintenance*.

16. Thus, the impugned Order dated 25.11.2024 suffers from no infirmity.



17. Needless to say, both the parties are at liberty to raise their assertions before the learned Family Court Judge, who shall determine the same on merit at the time of disposal of the maintenance Petition, uninfluenced by any observations made in this Order.

18. The Appeal is accordingly dismissed.

19. On the request of learned Counsel for the Appellant, the learned Family Court may consider referring the parties to Mediation Centre for an endeavor to settle the *inter se* disputes.

**(NEENA BANSAL KRISHNA)
JUDGE**

JANUARY 16, 2025

r