



2025:DHC:11428



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

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Date of Decision: December 16th, 2025

+ **CRL.REV.P.(MAT.) 569/2025 & CRL.M.A. 37503/2025, CRL.M.A. 37504/2025, CRL.M.A. 37505/2025, CRL.M.A. 37506/2025**

AFZAL HUSSAIN

.....Petitioner

Through: Mr. Suhail Khan, Mr.
Farid Ahmed Nizami, Mr.
Vishal Raj Sehijpal, Mr.
Shoeb Shakeel, Ms.
Vratika Mittal, Ms.
Priyanka Handa,
Advocates.

versus

SANA KHAN

.....Respondent

Through: Mr. Deepak Acharya,
Advocate.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition has been filed under section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS'), assailing the order dated 16.07.2025, passed by the learned Additional Sessions Judge ('ASJ'), in Cr. Appeal No. 282/2024 titled "*Afzal Hussain v. Sana Khan*".

2. By the impugned judgment, the learned ASJ has dismissed the appeal filed by Petitioner/ husband under section 29 of the



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Protection of Women from Domestic Violence Act, 2005 ('**DV Act**') and upheld the order dated 27.07.2024, passed by the learned JFMC, in Ct Case 1069/2022, whereby the Ld. JMFC decided the interim maintenance application under section 23 (2) DV Act and directed the Petitioner to pay Rs. 12,000/- per month to Respondent/Wife as interim maintenance from the date of filing of the Application till its disposal.

3. The learned Counsel for the Petitioner submits that the awarded maintenance amount is exuberant as the Petitioner has no source of income and has been laid off in October 2024.

4. He further submits that the Respondent/Wife is well-educated, is gainfully employed with Madiha Beauty Parlour, Near Chand Masjid, Thokar No.4, Abul Fazal Enclave, New Delhi and earning Rs. 15,000/- per month, and her earning capacity has not been considered.

5. *Per Contra*, the learned counsel for the Respondent submits that the present petition is devoid of any merit and is liable to be dismissed as the impugned order has been passed after due consideration of the material placed on record as well as that the Respondent has no source of income to maintain herself.

6. Submissions heard and the record perused.

7. At the outset, it is apposite to note that the Petitioner has concurrent findings of both subordinate courts against him. The scope of revisional jurisdiction under Sections 397 and 401 Cr.P.C. is narrow and circumscribed. Interference is warranted only where the impugned order suffers from patent illegality, perversity, gross impropriety, or results in miscarriage of justice.



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8. It is equally well-settled that orders granting interim maintenance are based on a *prima facie* assessment of material placed before the Court, and ordinarily ought not to be interfered with unless the finding is wholly arbitrary or untenable.

9. It is pertinent to note that the relationship between the parties has not been disputed. It is well established principle that an able-bodied man cannot shirk from his responsibility to maintain his wife/children [**Ref. *Shamima Farooqui v. Shahid Khan* : (2015) 5 SCC 705**].

10. From a perusal of the impugned order, it is apparent that all the contentions raised by the Petitioner have already been considered and addressed. It has been rightly noted by the learned ASJ that the income affidavit of the Petitioner shows that he is employed at Amazon Development Centre India Pvt. Ltd. and getting the monthly income of Rs. 72,787/- and that he is residing on rented premises along with his family members. The three brother of the Petitioner could not be considered dependant upon his income as they are admittedly adults and capable of earning. This *prima facie* assessment was only for the limited purpose of ascertaining the interim maintenance to be awarded.

11. Further, it is also noted that the income affidavit of the Respondent reveals that she is a graduate and is residing with her elder sister, without any sources income to sustain herself.

12. Thus, after duly considering the income, expenditure and the social status of the parties, and the responsibility of husband to maintain his wife as well as his legal obligation to give her a



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decent living by providing the basic necessities, the learned ASJ upheld the grant of Rs. 12,000/- per month towards interim maintenance to the Respondent, which in the opinion of this court cannot be said to be exuberant.

13. Further, while addressing the contention of the Petitioner that the wife is gainfully employed, it has been rightly noted that the same is a subject matter of trial and in any case, even if the wife is earning or is capable of earning, as the case maybe, her right to maintenance is not barred as the wife is also entitled to enjoy the same amenities as she would have been entitled to in her matrimonial home.

14. In view of the above, this Court finds no reason to interfere with the impugned order.

15. Insofar as the argument in relation to the Petitioner being currently unemployed is concerned, he is at liberty to avail appropriate remedy by establishing the same before the learned Trial Court.

16. Moreover, it is pertinent to note that the impugned order pertains to interim maintenance. The contentions raised by the parties along with the allegations and counter allegations would be finally adjudicated after the parties have led their evidence. No material has been placed on record at this stage that would merit refusal of interim maintenance to the Respondent/wife.

17. It is made clear that any observation made in this order is only for the purpose of deciding the present petition and shall not impact the outcome of the final order.

18. In view of the above, I find no merit in the present petition,

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which are hereby dismissed, along with pending application(s), if any.

AMIT MAHAJAN, J

DECEMBER 16, 2025

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