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

\+ CRL.REV.P.(MAT.) 571/2025 & CRL.M.As. 37651-37654/2025

SAURABH SAGAR .....Petitioner

Through: Mr. Rohit Malik, Mr. Deepanshu Trehan and Mr. Nittin Bhatia, Advocates.

versus

DEEPSI .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

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

% **17.12.2025**

1. This revision petition is directed against order dated 1st August, 2025 passed by the Family Court-01, South East District, Saket Courts in MT. No. 191/2023 whereby interim maintenance of INR 40,000/- per month has been awarded in favour of the Respondent in proceedings instituted under Section 125 of the Code of Criminal Procedure, 1973.[1]

2. The relationship between the parties is not in dispute. The Respondent (wife) married the Petitioner (husband) on 24th August, 2018. Parties have no child from this marriage. Owing to marital discord, the parties have been living separately. The Respondent thereafter instituted proceedings under Section 125 CrPC seeking maintenance, in which the application for interim maintenance came to be decided by the impugned order.

3. Counsel for the Petitioner submits that the quantum of interim

maintenance awarded is unreasonable and manifestly excessive. The Petitioner's employment is not disputed, however, his net take-home salary during the relevant period was only about INR 84,000/- per month. The Family Court erred in proceeding on the basis of the Petitioner's gross income and in drawing an adverse inference against him on account of deductions reflected in his salary slips. The said deductions were on account of genuine advances and loan repayments and could not have been disregarded.

4. It is further contended that the Petitioner has financial responsibilities towards his mother, is himself living in rented accommodation, and does not own any immovable property. On the other hand, Respondent is residing with her parents, is a qualified teacher, and is capable of sustaining herself. It is further submitted that the Respondent's medical expenses stand covered under an insurance policy taken by the Petitioner, and therefore the quantum awarded is disproportionate.

5. This Court has considered the rival submissions and perused the record. The challenge is to an order granting interim maintenance. It is well settled that interim maintenance is fixed on a *prima facie* assessment of the material placed on record, with the object of ensuring subsistence during the pendency of proceedings. At this stage, the Court is not expected to undertake a detailed fact-finding exercise or conduct a mini-trial. Moreover, interference in revisional jurisdiction is warranted only where the discretion exercised by the Trial Court is shown to be perverse, arbitrary, or manifestly illegal.

6. The impugned order reflects a detailed and reasoned consideration of

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[1] "CrPC"

the material placed before the Family Court. The relevant observations of the Family Court, which form the basis of the impugned order, read as under:

> *"11. Coming now to the actual earnings of the respondent as revealed from the record. The respondent has placed on record his salary slips for the year 2023 as well as 2024. Now these salary slips give us a true peak into the actual earnings of the respondent. In salaried employment the term "means of the husband" as used in Section 125 Cr. P. C., encompasses (1) gross earnings; (II) regular allowances and perquisites; (iii) annual increments, arrears or bonus; and (iv) only mandatory statutory deductions (income tax, employees share of NPS/EPF and similar compulsory exactions). Self-Incurred or discretionary deductions (consumer loans, festival advances, voluntary savings, insurance premia, society dues, salary-linked purchases, etc.) cannot be permitted to depress the maintenance base. It is trite that a husband cannot, by engineering his pay-out structure, subvert the statutory right of his wife to be maintained.*
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> *12. The record of salary slips in this case unmistakably shows that around the time these proceedings were initiated, new deductions appeared in the salary of the respondent/husband: a "festival advance recovery" of about 12,000 per month, followed later by a personal-loan EMI. This occurred even as the respondent's gross earnings rose from about 1.16 lakh (April 2023) to about 1.56 lakh (December 2024), with the "take-home" paradoxically falling from about 1.02 lakh to about 84,000. Being a bank officer, well-versed in salary structuring, the respondent has furnished no cogent explanation for the timing or necessity of these liabilities, nor for prioritizing them over his legal duty to maintain his wife. The Court, therefore, draws a limited adverse inference that the net salary has been deliberately depressed after notice of the present claim.*
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> *13. Accordingly, while considering the respondent's income, the Court proceeds on the basis of his gross monthly earnings after deducting only statutory contributions such as income tax and compulsory retirement savings. and disregards all discretionary liabilities or self-incurred deductions. This approach prevents any artificial reduction of income figures by the respondent during the pendency of the proceedings. The quantum of interim maintenance, will therefore be fixed having regard to the respondent's real earning capacity, his rising gross remuneration, and the petitioner's genuine needs, which include her medical and nutritional requirements as a cancer survivor, as well as her ordinary living expenses commensurate with the parties" social standing.*
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> *14. In view of the respondent's admitted earnings and the social*

standing of the parties, the respondent is directed to pay a sum of 30,000/- per month to the petitioner/wife towards her interim maintenance from the date of the filing of the Interim application in May 2023 till today. Thereafter, considering the substantial increase in the total earnings of the respondent every year, he is directed to pay a sum of 40,000/- per month to the petitioner/wite from the date of this order, till she is legally entitled to receive the same during the pendency of this petition. The respondent is directed to clear the arrears of interim maintenance within a period of six months from today and shall continue to pay the interim maintenance at the aforesaid race by the 10th of each English calendar month. It is clarified that any amount already paid by the respondent towards the maintenance of the petitioner under the orders of any other Court this Court/voluntary payments made through laik accounts after May 2023 shall be adjusted.

15. In light of the above directions, ***the application filed by the petitioner for interim maintenance is hereby disposed of as allowed.***

16. Nothing stated herein above shall tantamount ta expression of any opinion on the merits of the case.

17. Petitioner is directed to file her evidence by way of affidavit along with list of witnesses within four weeks with advance copy to the opposite party.

18. Put up for petitioner's evidence on ***09.01.2026.****"*

7. The Family Court has examined the Petitioner's salary slips over a considerable period and has noticed a marked increase in his gross earnings from approximately INR 1.16 lakhs in April 2023 to about INR 1.56 lakhs in December 2024, while the take-home salary simultaneously reflected a decline owing to newly introduced deductions. In this backdrop, and having regard to the timing and nature of these deductions, the Family Court drew a limited adverse inference that the Petitioner's net income had been depressed after initiation of the maintenance proceedings.

8. In proceedings for interim maintenance, the assessment of "means" is not confined to the net salary remaining after self-incurred or discretionary financial commitments. It is well settled that while statutory deductions alone may be excluded, liabilities undertaken voluntarily such as loan EMIs,

advances, or personal financial arrangements cannot be permitted to override the statutory obligation to maintain a spouse.[2] The Family Court was, therefore, justified in proceeding on the basis of the Petitioner's actual earning capacity rather than the reduced take-home salary resulting from such deductions. Viewed thus, the inference drawn and the approach adopted by the Family Court cannot be said to suffer from any legal infirmity or to warrant interference at this stage.

9. The Petitioner's contention that the Respondent is independently earning or capable of maintaining herself does not advance his case. No documentary material has been placed on record to establish that the Respondent has a regular or sufficient source of income. In any event, it is well settled that the mere educational qualification or potential employability of the wife does not absolve an able-bodied husband of his statutory obligation to maintain her.[3] The entitlement to maintenance turns not on theoretical earning capacity, but on whether the wife has sufficient independent income to sustain herself.

10. This position assumes significance in the present case, where it is not in dispute that the Respondent is a cancer survivor. Even if she is presently in remission, the Family Court was justified in taking the view that her ordinary living expenses would be higher on account of continuing medical care, dietary requirements, and follow-up treatment. In this backdrop, the Petitioner's attempt to rely on the Respondent's alleged employability to seek reduction of interim maintenance is misconceived.

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[2] ***Subhash v. Mamta @ Raksha*** in MAT.APP.(F.C.) 195/2025 decided on 26th May, 2025; ***Kulbhushan Kumar (Dr) v. Raj Kumari*** (1970) 3 SCC 129.

[3] ***Shamima Farooqui v. Shahid Khan*** (2015) 5 SCC 705; ***Anju Garg v. Deepak Kumar Garg*** 2022 SCC OnLine SC 1314.

11. Having regard to the overall facts and circumstances, this Court finds that the impugned order reflects a balanced assessment of the Petitioner's earning capacity, the Respondent's needs, and the social standing of the parties. The quantum of interim maintenance fixed does not warrant interference at this stage. However, it is clarified that the interim arrangement shall remain subject to modification upon evidence being led by the parties before the Family Court.

12. The present petition is dismissed along with pending applications.

SANJEEV NARULA, J

DECEMBER 17, 2025
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