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

+ **CRL.REV.P.(MAT.) 593/2025 & CRL.M.A. 38673-38674/2025**

JITENDER KUMAR

.....Petitioner

Through: Mr. Vikas Azad, Adv.

versus

DAYARANI & ANR.

....Respondents

Through: Mr. Prakhar Sharma, Mr. Rajeev
Rathee and Ms. Devi Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

24.12.2025

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1. This revision petition is directed against order dated 24th September, 2025 passed by Family Court, North District, Rohini Courts, Delhi, in Mt. Case No. 101/2020 whereby interim maintenance of INR 20,000/- per month has been awarded in favour of the Respondents 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 Petitioner (husband) married Respondent no. 1 (wife) on 14th February, 2014. From this marriage, they have one girl child (Respondent No. 2) who is presently in custody of Respondent no. 1. Owing to marital discord, the parties have been living separately since 16th June, 2016. The Respondent thereafter

¹ "Cr.P.C."



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 contends that the Family Court failed to appreciate that Respondent No.1 is not wholly dependent and is stated to be earning approximately INR 15,000 per month as a social worker. It is further contended that the monthly expenditure projected by the Respondents is exaggerated and does not warrant an award of interim maintenance of INR 20,000 per month.

4. It is also argued that Respondent No.1 left the matrimonial home of her own volition and without sufficient cause, and therefore is not entitled to maintenance. The Petitioner further submits that he bears responsibility towards his aged parents and that the impugned order does not reflect consideration of his liabilities. Lastly, it is urged that the impugned order is non-speaking and has been passed mechanically, without a reasoned assessment of the comparative financial positions of the parties.

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 on 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:

“3. I have considered the submissions and gone through the record. This court is to decide whether the respondent should be awarded interim maintenance and if so, to what amount.

4. In a recent judgment dt 31/08/2023, in case titled As **Zahir Abdullah Vs Omar Abdullah** (Crl.Rev.P. 604/2018 & Crl.M.A. 28262/2018), the Hon'ble Delhi High Court discussed the law in detail on the grant of interim maintenance u/s 125 CrPC. The court reiterated that the principle underlying Section 125 Cr.P.C. For the sake of brevity, the relevant observations made in para 21, 22 & 24 are not being reproduced.

5. In **Rajnesh v. Neha**, (2021) 2 SCC 324, the Hon'ble Supreme Court had laid down the criterion for determining quantum of maintenance.

6. In **Jayant Bhargava v. Priya Bhargava**, 2011 SCC OnLine Del 1651, the Hon'ble Court observed that while guessing the income of the spouse, when the sources of income are either not disclosed or not correctly disclosed, the Court can take into consideration amongst others the factors including life style of the spouse; the amount spent at the time of marriage and the manner in which marriage was performed; destination of honeymoon; ownership of motor vehicles; household facilities; facility of driver, cook and other help; credit cards; bank account details; club memberships; amount of insurance premium paid; property or properties purchased; rental income; amount of rent paid; amount spent on travel/holiday; locality of residence; number of mobile phones; qualification of spouses; school(s) where the child or children are studying when parties were residing together; amount spent on fees and other expenses incurred; amount spend on extra-curricular activities of children when parties were residing together; capacity to repay loan.

7. A careful perusal of record would show that the relationship of husband and wife between the respondent and petitioner is not disputed in the present case. The entitlement for maintenance at this stage is to be considered on the basis of prima-facie evaluation of the material brought on record. There are rival contentions by both the parties regarding act and conduct of each other which is a subject matter of trial. There are rival contentions regarding the financial status of each other which is also a subject matter of trial.

8. A clear and concrete view about the income and resources of parties can be made with the help of prospective evidence to be led by them during trial but at this stage a prima facie view is to be made regarding the entitlement of the petitioner to get interim maintenance and about the quantum of maintenance.

9. The petitioner has asserted that the respondent earns about Rs.90,000/- pm but the same has been refuted by the respondent. There is



no cogent material placed by the petitioner in support of her claim regarding the income of the respondent. The respondent has disclosed his net salary as Rs.59,000/- pm. At this stage, the income affidavit of the respondent is the only reliable material for assessment of his income. As per the income affidavit of the petitioner, she is having no source of income. Prima-facie, she is unable to maintain herself and her minor child.

10. The purpose of grant of maintenance is to protect the wife and children from vagrancy.

11. Keeping in view the material available on record including the admitted income of the respondent, I am of the considered view that it shall suffice to meet the ends of justice that the respondent is directed to pay a consolidated interim maintenance of Rs.20,000/- pm to petitioners from the date of filing of the present petition till further orders/during pendency of the petition. Ordered accordingly. The respondent is directed to pay the monthly interim maintenance as above before 10th of each calendar month by direct payment or by depositing the same in the bank account of the petitioner. The respondent is further directed to clear the arrears of maintenance within three months. The request for interim maintenance stands disposed off accordingly. The interim maintenance already received by the petitioner either voluntarily or under any other proceedings during the relevant period shall be adjusted in the above amount. (Nothing stated herein above shall tantamount to an expression of opinion about merits of the case)."

6. A perusal of the impugned order indicates that the Family Court has correctly appreciated the scope of adjudication at the stage of interim maintenance and has proceeded on a *prima facie* assessment of the material placed on record.

7. The Petitioner does not dispute the relationship or the fact that he is the biological father of Respondent No. 2. He is working as an Inspector in the CRPF and, therefore, his income is not in dispute. He is stated to be drawing a net salary of approximately ₹59,000/- per month.

8. The Petitioner's contention that Respondent No. 1 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. It is well settled that the mere assertion of employability of the wife, absent proof of actual and sufficient income, does not absolve an able-bodied husband of his statutory obligation to maintain her.² The entitlement to maintenance turns not on theoretical earning capacity, but on whether the wife has sufficient independent income to sustain herself.

9. The admitted income of the Petitioner, the absence of any cogent material to substantiate the allegation that Respondent No.1 is earning, and the fact that the minor child is residing with Respondent No.1, stand duly considered.

10. The contentions that Respondent No.1 left the matrimonial home without sufficient cause and that the Petitioner bears responsibility towards his aged parents do not warrant any interference at this stage. The issue of desertion involves disputed questions of fact which are required to be adjudicated on evidence and cannot be conclusively examined while considering interim maintenance. The Petitioner's personal liabilities, howsoever relevant, do not eclipse his statutory obligation to maintain his wife and minor child.

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 Respondents' 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

² *Shamima Farooqui v. Shahid Khan* (2015) 5 SCC 705; *Anju Garg v. Deepak Kumar Garg* 2022 SCC OnLine SC 1314.



by the parties before the Family Court.

12. The petition is dismissed with pending application(s), if any.

SANJEEV NARULA, J

DECEMBER 24, 2025/ng