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

+ **W.P.(CRL) 487/2026**

KANCHAN SHARMA & ANR.

.....Petitioners

Through: Mr. Prabhjit Jauhar, Ms. Anupama Kaul, Ms. Sehaj Kataria and Mr. Tanay Kalia, Advocates with petitioners in person

versus

PRANAV SHARMA

.....Respondent

Through: Ms. Priyadarshini Dewan, Mr. Manish Pratap Singh, Ms. Aarohi Mikkilineni and Ms. Soundarya Vats, Advocates.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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10.02.2026

CRL.M.A. 4506-4507/2026 (*for exemption*)

1. Allowed, subject to all just exceptions.
2. The applications are disposed of.

W.P.(CRL) 487/2026 & CRL.M.A. 4505/2026 (*interim directions*)

3. As per request of learned counsel for petitioners, the present petition is treated as only under *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), and not under *Articles 226* and *227* of the Constitution of India.
4. Accordingly, the Registry is directed to renumber the same as a CRL.REV.P.(MAT.) __/2026.
5. By virtue of the present petition under *Section 528* of the BNSS the



petitioners seek setting aside of the order dated 20.01.2026 (*impugned order*) passed by the learned Family Court, South District, Saket Courts, Delhi (*learned Family Court*) in MT No.327/2025, as well as directions to the respondent/ father to bear the entire educational and other incidental expenses of the petitioner no.2/ daughter at the University of Southern California in Los Angeles, California, U.S.A., as sought before the learned Family Court.

6. *Succinctly put*, the petitioners had filed MT No.327/2025 before the learned Family Court seeking maintenance under *Section 144* of the BNSS, and had also filed an application for interim relief therein particularly for payment of tuition fee and living expenses of the daughter to continue her education at the University of Southern California where she had already completed one year. However, the learned Family Court declined to grant the said interim relief to the petitioners *vide* the impugned order, which is under challenge herein.

7. Before this Court, it is primarily the case of the petitioners that though the learned Family Court had directed the father to file his income affidavit on 12.01.2026, the same was not filed till 17.01.2026, on which date, considering the due date for depositing the requisite fee at the University of Southern California was 23.01.2026, the learned Family Court noted that the interim application of the petitioners would be decided without the said affidavit. Despite the same, not only has the income affidavit filed by the father on 19.01.2026 been taken on record, but has also been considered by the learned Family Court while passing the impugned order on 20.01.2026, and that too without affording an opportunity to the petitioners to rebut the same. It is thus the case that the



impugned order suffers from arbitrariness, as also is against the principles of natural justice.

8. In furtherance thereof, learned counsel for the petitioners submits that, even otherwise, the said affidavit was incomplete as it failed to disclose material particulars such as the balance sheets of companies wherein the father was a director, all bank accounts of the father of the years 2023, 2024 and 2025 and other parameters as laid down by the Hon'ble Supreme Court in ***Rajnesh vs. Neha:(2021) 2 SCC 324***. Hence, for those reasons also, reliance thereupon by the learned Family Court was misplaced and the impugned order is erroneous.

9. Learned counsel further submits that grave prejudice has been caused to the daughter as her education has been suspended midway, despite the father having given an express undertaking to the University of Southern California *vide* Affidavit of Undertaking dated 11.06.2024 that he and his family had ample financial resources to provide necessary funds for her education therein. As per him, since the father had already spent more than a sum of Rs.1 crore on luxury expenses such as Business Class travel for the daughter and himself, and as such, he had no paucity of funds. He submits that it was only due to the domestic violence proceedings initiated by the petitioner no.1/ mother being CT. Case No.2923/2024 before the learned Mahila Court, South District, Saket Courts, Delhi that the father threatened the petitioners, and eventually refused to fund the daughter's further education at the University and got her tickets to Los Angeles cancelled about *three days* before the scheduled departure.

10. As the learned Family Court has failed to take the aforesaid factors



into consideration, as per learned counsel, the impugned order is liable to be set aside.

11. Issue notice.

12. Learned counsel for the father, appearing on advance service, accepts notice.

13. *Briefly put*, learned counsel for the father has denied all averments made by learned counsel for the petitioners and submitted that the impugned order does not suffer from any arbitrariness or perversity. As such, as per him, it has been rightly held that the father does not have sufficient funds to support the daughter's further education in the U.S.A., particularly since he does not have any exclusive source(s) of money, and the rest of his family members have denied to offer his daughter any financial support after the domestic violence proceedings initiated by the mother against all of them.

14. This Court has heard learned counsels at substantial length as also carefully perused the record.

15. At the outset, without advertng to the merits involved, a bare perusal of the record reveals that on 17.01.2026 the learned Family Court had categorically recorded therein as under:

“In these facts, this Court is of the view that application of petitioner no.2 for interim maintenance needs to be decided without waiting for income affidavit of the respondent otherwise, same shall become infructuous.”

Emphasis supplied

16. However, within a period of *three days* thereafter, the learned Family Court has passed the impugned order taking the very same income affidavit on record as under:



*“1. Income affidavit of the respondent has been filed.
Taken on record.*

xxx xxx

*7.The bank account statement of the respondent filed
alongwith his income affidavit does not show anything
substantial in the year 2025 which can justify the submission
of Ld. Counsel for petitioners that he was a man of means
and was deliberately not sending petitioner no.2 to the
University of Southern California for completing her
remaining education.”*

Emphasis supplied

17. The above clearly reflects that though the learned Family Court noted the urgency of the circumstances involved *vide* order dated 17.01.2026 and clearly recorded that the interim application of the petitioners was liable to be decided without the income affidavit of the father, it has not only taken the same on record without according any chance to respond/ rebut thereto to the petitioner but has also taken it into consideration and proceeded to pass the impugned order. Considering the backdrop, the father could not have been allowed to take advantage of his own delays.

18. In view of the aforesaid, without advertng to the merits involved, the impugned order is set aside and the application for interim relief filed by the petitioners in MT No.327/2025 is remanded to be decided afresh by the learned Family Court in accordance with law following the proper available recourse.

19. Considering the surrounding circumstances, especially the educational and career prospects of the daughter and the urgency involved, the learned Family Court is requested to dispose of the present application at the earliest, preferably within a period of *six weeks*.



20. As such, the present petition, alongwith the pending application, is disposed of with the aforesaid terms.

SAURABH BANERJEE, J

FEBRUARY 10, 2026/So