



2026:DHC:400



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

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*Judgment reserved on: 08.01.2026**Judgment pronounced on: 12.01.2026**Judgment uploaded on: 16.01.2026*+ **CRL.REV.P. 300/2024 & CRL.M.A. 6917/2024**

VIJAY SINGH

.....Petitioner

Through: Mr. Anuj Kumar, Advocate
(through VC)

versus

SHIVANI

.....Respondent

Through: Mr. Vipin Pillai, Advocate
along with respondent- wife in
person.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J.**

1. By way of the present revision petition, the petitioner-husband is seeking setting aside of the order dated 20.11.2023 [hereafter '*impugned order*'], passed by the learned Family Court-01, East District, Karkardooma Courts, Delhi [hereafter '*Family Court*'] in MT No. 266/2022, titled as '*Shivani vs. Vijay Singh*', under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] whereby the respondent-wife has been awarded interim maintenance in the sum of ₹6,000/- per month.



2026:DHC:400



2. Brief facts of the present case are that the respondent-wife and the petitioner-husband were married on 04.05.2021 according to Hindu rites and ceremonies. No child was born from the said wedlock. It is alleged by the respondent-wife that soon after the marriage, she was subjected to cruelty by the petitioner-husband and his family members on account of insufficient dowry. It is further alleged that prior to the marriage, the petitioner had represented to the respondent's family that he was engaged in the business of dry fruits under the name and style of "M/s Valhalla Nuts and Spices" and was earning a substantial income therefrom. According to the respondent, on 17.04.2022, she was forcibly turned out of her matrimonial home after being physically assaulted by the petitioner and his family members.

3. Aggrieved by the conduct of the petitioner, the respondent-wife filed the petition under Section 125 of Cr.P.C. in May, 2022. In the said petition, the respondent averred that she is a housewife, does not own any movable or immovable property, and has no independent source of income. It was stated that she has studied only up to the 10th standard and is entirely dependent upon her parental family for her sustenance. It is further the case of the respondent that the petitioner is a man of sufficient means. She claims that he is well educated, holding qualifications of B.Ed and B.T.C., and is carrying on the business of dry fruits, from which he is earning approximately ₹90,000/- per month. It is also averred that the petitioner has various



family properties and is leading a comfortable and luxurious life.

4. Initially, ad-interim maintenance of ₹3,000/- per month was granted in favour of the respondent-wife. Thereafter, the learned Family Court, after hearing both the parties and upon perusal of their respective income affidavits, was pleased to pass the impugned order, observing as under:

“7. On perusal of the record, it is revealed that none of the party has filed any document to prove the income of opposite party in support of their claim. Court is required to assess the income assets, expenditure of the parties by taking a prima facie view of the matter.

8. The bank statement filed by respondent reflect many credit entries of different amounts upto Rs. 30,000/- but these credit are not explained in any way on record. The credit entries indicate some resources in the hands of respondent. On the other hand the bank statement of petitioner- husband does not reflect any substantial credit entry.

There is nothing to accept that petitioner has any source of income to maintain herself. As per admission of respondent-wife he is employed and getting salary but there is no evidence to accept that he is running any dry fruit shop. Keeping in view the entire facts and circumstance of the case, taking into consideration the minimum wages as well as the fact that respondent is an able bodied person and is required to provide for the necessities of his family, his monthly income should be atleast Rs,18,000/- per month. Accordingly. I take the income of respondent @ 18,000/-per month.

9. Respondent has claimed the responsibility of his old aged parents and claimed the expenses of Rs. 5,000/- per month on dependents. Petitioner has disputed the claim of dependents by respondent. Respondent has not placed on record any material Leshly any expenses towards maintenance of his departments. Therefore, his plea of departments is prima-faciely not acceptable.

10. Keeping in view the facts and circumstances of the case, in



2026:DHC:400



my opinion, prima-faciely, it has been established by petitioner that she is the legally wedded wife of the respondent. Petitioner has also prima-faciely established that respondent has neglected to maintain her despite having sufficient means. In my view, petitioner is entitled for interim maintenance and respondent has legal and moral duty to make provision for maintenance of petitioner being his wife.

11. To calculate the maintenance amount which petitioner is entitled to seek from respondent, reliance is placed upon **Annurita Vohar v. Sandeep Vohra; 110 (2004) DLT 456** where Hon'ble High Court has observed as under:

"In my view, a satisfactory approach would be to divide the Family Resource cake in two portions to the Husband since has to incur extra expenses in the course of his making his earning, and one share to each other members."

12. Applying the above mentioned guiding principal, generally two shares of the income should go to the earning spouse and the one share to the claimant spouse and other dependent i.c. wife.

13. In view of the above discussion, maintenance of Rs.6,000/- per month, is allowed in favour of the petitioner and against the respondent from the date of filing of present petition till the disposal of the present petition..."

5. The learned counsel appearing on behalf of the petitioner-husband argues that the learned Family Court has passed the impugned order on the basis of presumptions and surmises, and that the same does not correctly reflect the actual financial position of the petitioner. It is argued that, as per the income affidavit on record, the petitioner is employed with M/s JMD H.R. Management Pvt. Ltd. and is earning a gross honorarium of ₹13,906/- per month, with an *in-hand* income of about ₹10,000/- per month. It is submitted that no other source of income has been shown to exist. It is further



2026:DHC:400



contended that the maintenance ought to have been determined on the basis of the minimum wages applicable in the State where the petitioner-husband is presently working. The learned counsel further submits that the statement of bank account filed by the respondent-wife before this Court was not placed before the learned Family Court, and therefore, the learned Family Court did not have the benefit of considering the same. It is also argued that the petitioner-husband has the responsibility of looking after his ailing father. The learned counsel further contends that the learned Family Court has failed to appreciate that the respondent-wife is gainfully employed at a beauty parlour/stitching shop and is earning about ₹10,000/- per month, which, according to him, reduces her dependency and ought to have been taken into account while determining the amount of maintenance. On these grounds, it is prayed that the impugned order be set aside.

6. *Per contra*, the learned counsel appearing for the respondent-wife submits that the petitioner-husband, despite having sufficient means, has wilfully neglected and failed to discharge his marital obligations. It is further argued that the petitioner has deliberately suppressed material facts by not placing on record documents relating to his family properties and bank accounts before the learned Family Court, with the intent to mislead the Court. It is submitted that the respondent-wife is unemployed, does not possess any substantial educational qualifications, and is wholly financially dependent, yet



has been deprived of financial support even for her basic needs. It is further contended that the petitioner-husband has no other legal or financial liability except to maintain his wife. The learned counsel for the respondent-wife also argues that the impugned order has been passed after due appreciation of the material available on record and does not suffer from any illegality, impropriety, or perversity. Accordingly, it is prayed that the present revision petition be dismissed.

7. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent, and has perused the material available on record.

8. In the present case, the respondent-wife has consistently stated that she has no independent source of income and is entirely dependent upon her aged parents for her sustenance. It is also pertinent to note that the respondent has specifically stated in her income affidavit that she has studied only up to the 10th standard and does not possess any further educational qualifications. Although it has been contended on behalf of the petitioner-husband that the respondent-wife is educated and is pursuing M.A., it is well settled that mere educational qualification or capacity to earn does not *ipso facto* establish that a wife is actually earning. There is a clear distinction between the ability to earn and actual earning [*Ref: Shailja & Anr. v. Khobbanna: (2018) 12 SCC 199*].

9. Even otherwise, no material has been placed on record by the



2026:DHC:400



petitioner-husband to even *prima facie* show that the respondent-wife is gainfully employed or earning any income. The learned Family Court has rightly recorded that there is nothing on record to show that the respondent-wife has any source of income sufficient to meet her basic needs. This Bench, recently in ***Arshi Parveen v. Maqsood @ Sonu: CRL.REV.P. 763/2024***, has also observed that at the stage of interim maintenance, the Court cannot presume the earning capacity of the wife in the absence of any proof of actual income, and mere allegations regarding her employability or educational qualifications are not sufficient to deny maintenance under Section 125 of the Cr.P.C.

10. Insofar as the assessment of the income of the petitioner-husband is concerned, the respondent-wife has stated that he earns about ₹90,000/- per month from his dry-fruit business. However, as rightly noted by the learned Family Court, no material has been placed on record by the respondent-wife to substantiate the said assertion at this stage. On the other hand, the petitioner-husband has contended that his take-home income is only about ₹10,000/- per month and that he is employed as an Ayushman Mitra on a salary/honorarium of approximately ₹13,900/- per month. This Court, however, is of the opinion that the said assertion does not inspire confidence in view of the bank account statements pertaining to the petitioner-husband.

11. In this regard, the learned Family Court has observed that the



2026:DHC:400



bank account statements filed by the petitioner-husband himself reflect several credit entries of amounts running up to ₹30,000/-. Though the petitioner-husband has argued that the said entries pertain to a joint account with his uncle, no material has been placed on record to show that the credited amounts were not for his benefit or that he had no control over the said funds. Even otherwise, at the stage of determining interim maintenance, the Court is only required to take a *prima facie* view, and the final determination of income is a matter of trial.

12. Further, the respondent-wife has now placed on record before this Court, the bank account statement of the petitioner-husband maintained with IDBI Bank, which reflects total transactions amounting to ₹15,05,155/- during the period from 02.08.2022 to 02.08.2025. The said statement shows multiple credit entries, including credits of substantial amounts. This Court is of the considered opinion that the said bank account statement ought to have been disclosed by the petitioner-husband himself before the learned Family Court. Be that as it may, the respondent-wife would be at liberty to place the same before the learned Family Court for appropriate consideration.

13. One of the arguments raised on behalf of the petitioner-husband is that the minimum wages ought to have been considered as per the State where he is employed, i.e., Aligarh, Uttar Pradesh. It is correct that while assessing income on the basis of minimum wages,



2026:DHC:400



the applicable notification of the concerned State is to be taken into consideration. In the present case, it appears that the minimum wages applicable to Delhi have been considered.

14. However, having regard to the overall facts and circumstances of the case, the entries reflected in the bank account statements as noted by the learned Family Court, and taking a *prima facie* view of the bank account statement of the petitioner-husband maintained with IDBI Bank placed before this Court by the respondent-wife, further considering that the said statement has not been disputed as such by the petitioner-husband, though it is contended that the same ought to be first considered by the learned Family Court, this Court, without delving deeper into the said aspect at this stage and taking only a broad and *prima facie* view, finds no infirmity in the assessment of the petitioner-husband's income at ₹18,000/- per month.

15. Accordingly, in view of the judgment of this Court in ***Annurita Vohra v. Sandeep Vohra***: 2004 SCC OnLine Del 192, this Court also finds no infirmity in the grant of interim maintenance in the sum of ₹6,000/- per month in favour of the respondent-wife.

16. In view of the foregoing discussion, this Court finds no merit in the present revision petition, and the same along with the pending application is accordingly dismissed.

17. It is, however, clarified that the observations made hereinabove are solely for the purpose of deciding present petition and shall not be



2026:DHC:400



construed as opinion of this Court on the merits of the case.

18. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JANUARY 12, 2026/GJ/RB

T.D.