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

+ **CRL.M.C. 1776/2022**

SHOBHA KUMARI

.....Petitioner

Through: Mr. Satyam Pandey, Adv.
versus

SH. RAJESH RAUSHAN

.....Respondent

Through: Mr. Vikram Dua and Mr. Vinod
Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

14.05.2026

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1. By virtue of the present petition, the petitioner seeks setting aside of order dated 21.01.2020 passed by the learned District and Sessions Judge, South West District, Dwarka, New Delhi in CA No.99/2020, whereby her appeal against the order dated 13.12.2019 passed by the learned Metropolitan Magistrate (*learned MM*) declining modification of the order dated 01.06.2019, was dismissed.

2. Learned counsel for the petitioner submits that the learned Metropolitan Magistrate (*learned MM*), when passing the orders dated 01.06.2019 and subsequent order dated 13.12.2019, did not take into consideration the dicta of the Hon'ble Supreme Court in *Rajnesh vs. Neha & Anr. : (2021) 2 SCC 324*, wherein it has been categorically held that the “... ..maintenance in all cases will be awarded from the date of filing of the application for maintenance... ..” and has wrongly quantified the claim of *interim* maintenance under *Section 23* of the Protection of



Women from Domestic Violence Act, 2005 (**DV Act**) from the date of the order rather than from the date of the application.

3. A perusal of the order dated 01.06.2019 passed by the learned MM reflects that while adjudicating upon the merits in terms of the submissions made by learned counsel for the parties, it has been categorically recorded as under:

“It is also argued by the ld. Counsel for the respondent that interim maintenance should be granted only from the date of order and not from the filing of the present petition as respondent is regularly making payment of the school fees of his children and bearing their all the other expenses. It is also stated that respondent is residing in a rented accommodation and he is paying rent of Rs.14,000/- per month. Submissions made on behalf of both the parties considered. Record perused.”

4. It is on the basis thereof that the learned MM proceeded to pass the following order:

“In view of the principle laid down in the above cited judgment, the respondent no.1 is directed to pay Rs.12,000/- P.M. to the petitioner from the date of present order till she starts working or final disposal of the case (whichever is earlier) and Rs.12,000/- per month to each of his minor son from the date of present order till they attain age of majority or final disposal of the case (whichever is earlier). The interim maintenance amount shall be towards food, clothing, house hold expenses, school fees, other educational expenses, medical expenses if any, all inclusive. The above said interim maintenance amount shall be adjustable to the amount, if any, the petitioner and her children are getting towards maintenance from the respondent from any other proceedings.”

5. In fact, in the challenge thereto, the learned Sessions Court *vide* order dated 27.08.2019, while disposing of the same has left said issue *qua*



the date from which maintenance to be awarded to petitioner open for adjudication by the learned MM at the appropriate stage.

6. However, in the wake of the above the petitioner instead filed an application seeking modification before the learned MM, which was then disposed of vide order dated 13.12.2019 as under:

“Vide order dated 01.06.2019, respondent was directed to pay the interim maintenance to the petitioner from the date of said order as it was claimed by the respondent that he was making regular payments for various expenses of the petitioner and her children prior to the date of decision of order dated 01.06.2019.

Considering the contradictory submissions made by the parties regarding the various expenses of the petitioner and her children, orders qua payment of interim maintenance from the date of filing of petition u/s. 12 DV Act was not made and the same can only be decided after appreciation of evidence led by the parties.”

7. In a challenge thereto by the petitioner herein, the learned Sessions Court vide impugned order dated 21.01.2020 has held as under:

“5. This court while disposing of CA No.50/2019 vide order dated 27.08.2019 had clearly observed that the trial court shall deal with the said question at an appropriate stage. The purport of the said order was that the trial court shall take a call after fresh material was brought on record. However, the appellant in her anxiety to get the order, without any fresh material moved the application for modification of order dated 01.06.2019. The action of appellant was apparently to precipitate the stage, earlier than indicated by this court. The Ld. Trial Court vide the impugned order has expressly stated that there being contradictory pleas by both the parties as regards expenditure being incurred for the intervening period, i.e. from the date of application till order, same cannot be decided without appreciation of evidence. I find no infirmity



in the order passed by the Ld. MM.

6. *In the absence of any material on record, the court was justified in keeping the issue open. Finding no merits in the appeal, same is dismissed. Order dated 13.12.2019 passed by Ld. MM is upheld.”*

8. This Court is in complete agreement with the findings rendered by the learned MM as affirmed thereafter by the learned Sessions Court thereafter. Moreover, the orders dated 01.06.2019, 27.08.2019, 13.12.2019 and the impugned order dated 21.01.2020 are self-explanatory wherein all the contentions have been duly gone into before a final adjudication was rendered thereto. Also, the said orders were passed much prior to the pronouncement of the judgment of the Hon’ble Supreme Court in ***Rajnesh (supra)*** and learned counsel for the petitioner has been unable to show the applicability of the same retrospectively. Even otherwise, the issue of date from which maintenance was/ is to be awarded to the petitioner has been left open and is to be decided based upon the evidence led by the parties.

9. In view of the afore-going reasoning, the present petition is dismissed.

SAURABH BANERJEE, J

MAY 14, 2026/Ab