



2026:DHC:2819



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

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*Judgment reserved on: 19.01.2026**Judgment pronounced on: 04.04.2026**Judgment uploaded on: 04.04.2026*+ **CRL.M.C. 6628/2022 & CRL.M.A. 25818/2022**

DINESH KUMAR

.....Petitioner

Through: None.

versus

NEETI & ORS.

.....Respondents

Through: Mr. Vikram Saini, Adv. along
with respondent no. 1.+ **CRL.M.C. 3998/2023**

NEETI

.....Petitioner

Through: Petitioner with her counsel Mr.
Vikram Saini, Adv.

versus

DINESH KUMAR

.....Respondent

Through: None.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. These cross-petitions preferred by the husband and the wife against a common order are being disposed of by way of this common judgment.



2. In these petitions, the parties have challenged the judgment dated 17.10.2022 [hereafter '*impugned judgment*'] passed by the learned Principal District and Sessions Judge, North West, Rohini Courts, Delhi [hereafter '*Appellate Court*'], in Crl. Appeal No. 02/2022 filed under Section 29 of the Protection of Women from Domestic Violence Act, 2005 [hereafter '*PWDV Act*']. By way of the impugned judgment, the learned Appellate Court awarded total interim maintenance in the sum of ₹13,000/- to the respondent-wife and the two minor children in her custody, thereby modifying the order dated 27.10.2021 passed by the learned MM, Mahila Court-02, North West, Rohini Courts, Delhi [hereafter '*Trial Court*'] in Ct. Cases No. 13059/2019.

3. In CRL.M.C. 6628/2022 and CRL.M.C. 3998/2023, the husband and the wife, respectively, have assailed the impugned judgment. While the husband contends that the interim maintenance awarded by the learned Appellate Court is arbitrary and excessive, the wife submits that the said amount is meagre and not commensurate with the financial status of the husband.

4. The brief facts of the case are that the marriage between the parties was solemnized on 08.04.2014 according to Hindu rites and ceremonies. From the said wedlock, two daughters, 'P' and 'K', were born on 11.01.2015 and 11.10.2016 respectively. The parties, however, separated in April 2016, when the wife was allegedly thrown out of the matrimonial home.



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5. In April 2017, the wife filed an application under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'], being MT No. 182/2017, seeking maintenance for herself and the two minor children. In the said proceedings, after taking into account the admitted income of ₹14,000/- per month of the husband, the concerned Family Court granted ad-interim maintenance of ₹7,000/- per month to the wife and the minor children *vide* order dated 22.06.2019.

6. Soon thereafter, on 27.06.2019, the wife also filed an application under Section 12 of the PWDV Act against the husband and his family members alleging acts of physical, emotional, sexual and economic abuse, including demands of dowry. Specific allegations were also levelled against the husband and his family members that she was harassed for having given birth to a girl child. It was further alleged that when she became pregnant for the second time, she was forced by her husband and in-laws to undergo a sex determination test. Upon her refusal, she was allegedly thrown out of the matrimonial home in April 2016. Thereafter, in October 2016, she gave birth to another girl child. In the said proceedings, she had *inter alia* sought grant of maintenance to the tune of ₹3,00,000/- per month.

7. The learned Trial Court, *vide* order dated 27.10.2021, assessed the monthly income of the respondent-husband at ₹12,000/- per month, which was his admitted income. The learned Trial Court also



took into consideration that ad-interim maintenance of ₹7,000/- per month had already been awarded to the wife and the two minor children under Section 125 of the Cr.P.C. Accordingly, the learned Trial Court granted interim maintenance of ₹3,000/- per month to the wife and the two minor children. The relevant observations of the learned Trial Court in this regard are as under:

“7. As per the income affidavit filed by the petitioner her monthly income is stated to be Nil. The respondent has stated through his income affidavit that the petitioner is earning Rs.30,000/- from giving tuitions, however nothing has been putforth by the respondent to support his said submission. Accordingly, the monthly income of the petitioner is assessed to be nil. Through the income affidavit, the petitioner/gas admitted that an ad interim maintenance to the tune of Rs. 7000/- has already been awarded to the petitioner vide order 22.01.2019 by Ld. Family Court, Rohini, Delhi.

8. Now, the income affidavit of respondent it is stated that he is working as Supervisor with M/s Jeet Engineering Works, Delhi and is earning Rs.12,000/- per month. The petitioner has stated through her income affidavit that the respondent is earning Rs. 8-10 lakhs from his business under the name and style of M/s Jeet Engineering Work, however nothing has been putforth by the petitioner to support her said submission. Accordingly the monthly of respondent is assessed to be Rs.12,000/- on the basis of the admission made by him.

9. Thus on the basis of the documents filed and the submissions, the status of both the parties, their education backgrounds, the obligation on the part of the respondent to maintain the petitioner and her two children, this court is of the view that a sum of Rs.3000/- be paid to the petitioner and her 2 children towards her food, clothing, residence, medicine and other necessities.

The abovesaid amount be paid from the date of filing of the petition till the final disposal of the petition under Section 12 of DV Act...”

8. Aggrieved by the aforesaid order, the wife preferred an appeal



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under Section 29 of the PWDV Act before the learned Appellate Court. The learned Appellate Court partly allowed the appeal and directed that the amount of ₹3,000/- per month awarded by the learned Trial Court be enhanced to ₹6,000/- per month. It was further directed that the said amount shall be in addition to ₹7,000/- per month already being paid by the husband as ad-interim maintenance under Section 125 of the Cr.P.C. Thus, a total amount of ₹13,000/- per month was directed to be paid to the wife for herself and the two minor children in her custody. The concluding observations of the learned Appellate Court are extracted hereunder:

“9. In view of the facts and circumstances of the present case, detailed income affidavits of the parties, documents, impugned order dt. 27.10.2021, materials on record and also the above judgments, I am of the considered opinion that it is a well recognized principle of law that where a person withholds vital information, a presumption arises against him that had he disclosed the information, the same would have been adverse to him. The respondent No.1/husband has not placed any document that the appellant/wife is earning any amount. The respondent No.1/husband has no liability except the appellant and minor children as he has not given any detail of his dependents in his income affidavit dt.01.02.2021 and also mentioned NA in the columns of dependent in his income affidavit dt.04.09.2021. In her detailed income affidavit, the appellant/wife claimed that the respondent/husband is earning a sum of Rs.8.00 to 10.00 lakhs pm from his business. Detailed income affidavit of the parties-herein have also been perused by this court. The factum of income and allegations of the parties are yet to be considered and decided after leading evidence by both the parties before the Ld. Trial Court. However, the aspect of interim maintenance may be considered at this stage as per the available documents of income and status of the parties. The respondent No.1/ husband is duty bound and he cannot escape from the liability to maintain his wife and two minor children for their day to day essential



expenses as per his status and income, if the appellant/ wife is neither working nor earning any amount. Considering the above discussions, day to day expenses, the living standard of the parties and the fact that both the minor children are living with the appellant/wife, the impugned order dt. 27.10.2021 is modified to the extent that the respondent No.1-herein/husband shall pay an amount of Rs.6,000/- pm instead of Rs.3,000/- pm to the appellant herein/wife and her two minor children as interim maintenance towards their food, clothing, residence, education, medicines and other necessities from the date of filing of the said petition/complaint till disposal of said complaint case. The ad interim amount of Rs.7,000/- pm already awarded by the Ld. Family Court and the amount of Rs.6,000/- pm awarded by this court (total Rs.13,000/- pm) shall be paid by the respondent No.1/husband to the appellant-herein/wife as per the above directions separately. The rest of the directions in the impugned order dt.27.10.2021 shall remain the same. Accordingly, this appeal is partly allowed...”

9. The learned counsel appearing for the wife argues that the total interim maintenance in the sum of ₹13,000/- per month awarded by the learned Appellate Court is wholly insufficient to meet the day-to-day expenses of the wife and the two minor school-going children residing with her. It is contended that the respondent-husband has filed a false income affidavit before the learned Trial Court and has deliberately manipulated the record relating to his income and financial status. It is further submitted that the husband is the sole proprietor of a business operating under the name and style of M/s Lalaji Plastic, but has attempted to conceal the same by projecting himself as a salaried employee. It is argued that the husband has falsely stated that his plastic business had been closed by the Government in the year 2016–2017. According to the wife, no material has been placed on record to substantiate this assertion and,



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on the contrary, recent photographs indicate that the said business continues to operate. It is further submitted that at the time of marriage, the husband had represented that he owned several properties in Delhi. The learned counsel further submits that the husband has also concealed the existence of bank account No. 1513000102412426 maintained with Punjab National Bank, Tri Nagar Branch, opened on 16.06.2017, in the name of M/s Lalaji Plastic, of which he is the proprietor. It is argued that the husband has manipulated the entire record relating to his income, properties and business activities and has falsely portrayed himself as an employee earning a salary of ₹12,000/- per month, which is highly improbable. It is also submitted that in the proceedings under Section 125 of the Cr.P.C., the husband had filed a salary slip showing his income as ₹14,000/- per month only with the intention of defeating the lawful claim of the wife and the children. It is argued that the husband is in fact living a comfortable and luxurious life, and therefore the maintenance awarded is grossly inadequate. On these grounds, it is prayed that the impugned judgment be set aside and the amount of interim maintenance be suitably enhanced.

10. No arguments were addressed on behalf of the husband when the matter was taken up for hearing on the last few dates. However, written submissions had been filed on his behalf, which have been considered by this Court. In the written submissions, it is contended on behalf of the husband that the learned Appellate Court failed to appreciate that no act of domestic violence was committed by him



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against the wife and that, in fact, it was the wife who had treated him and his family members with cruelty and had voluntarily left the matrimonial home. It is further submitted that the business of plastic manufacturing being run by him had been closed by the Government in the year 2016–2017. It is stated that thereafter the husband has been working as a Supervisor with M/s Jeet Engineering Works and is earning only ₹12,000/- per month, which is also reflected in his bank account statements. In support of the same, it is stated that he had placed on record his appointment letter/salary slip as well as his bank account statements for the preceding three years. It is also contended that the husband maintains only one bank account with Punjab National Bank and that he does not own any house or vehicle in his name. It is further argued that the wife is a graduate and is capable of maintaining herself and the minor children, and that she is earning about ₹30,000/- per month by giving tuition. Lastly, it is submitted that the learned Appellate Court failed to consider that ad-interim maintenance of ₹7,000/- per month had already been awarded in favour of the wife and the minor children by the learned Family Court in the proceedings under Section 125 of the Cr.P.C., and that the husband has been regularly paying the said amount as per his financial capacity. On these grounds, it is prayed that the impugned judgment be set aside.

11. This Court has **heard** arguments addressed on behalf of either side, and has perused the material placed on record.



12. In the present case, this Court is of the opinion that certain facts stand admitted and undisputed between the parties. Firstly, the marriage between the parties is not in dispute. It is also not disputed that two minor daughters were born from the said wedlock, in 2015 and 2016 respectively, and are in the custody of the wife. Thus, the responsibility of their day-to-day care, upbringing and education is being borne by the wife. Secondly, this Court notes that the husband has alleged that the wife is earning about ₹30,000/- per month by giving tuition. However, no document or material has been placed on record by him to substantiate this allegation. In the absence of any supporting material, such assertion cannot be accepted at this stage. Therefore, this Court does not find any infirmity in the finding of the learned Trial Court, as affirmed by the learned Appellate Court, that the income of the wife is to be treated as 'Nil' for the purpose of deciding interim maintenance.

13. On the other hand, the income affidavit filed by the husband reflects that he is earning ₹12,000/- per month from his employment as a Supervisor. This claim has been disputed by the wife, who has alleged that the husband, in fact, earns between ₹8,00,000/- to ₹10,00,000/- per month as the proprietor of a business being run under the name and style of M/s Lalaji Plastic. The husband, however, asserts that the said business had already been closed in the year 2017. However, apart from making such allegations, the wife has also not been able to place on record any cogent material to establish that the husband is presently earning income to such an



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extent from the said business. Even if the financial statements pertaining to M/s Lalaji Plastic for the years 2015, 2016 or 2017, placed on record by the wife, are taken into consideration, the net profit reflected therein would come to about ₹40,000/- to ₹45,000/- per month.

14. Thus, at this stage, while the allegation of the wife regarding the extremely high income of the husband remains unsubstantiated, the claim of the husband that he is earning only ₹12,000/- per month also requires to be examined cautiously in light of the overall facts and circumstances of the case.

15. The learned counsel for the wife has contended that after receipt of summons in the proceedings initiated by the wife, the husband has deliberately attempted to project a lesser income in order to evade his financial obligations. It is argued that despite being a graduate and having previously run a business, the husband has claimed that he is earning only ₹12,000/- per month, which is even below the minimum wages applicable in Delhi, and therefore the said claim is inherently doubtful. In support of her contention, the wife has placed on record the bank account statement dated 06.06.2017 in the name of M/s Lalaji Plastic, which shows that the husband was the proprietor of the said firm and that the said account reflected transactions involving substantial amounts. This Court also notes that the bank account statement in the name of the husband for the period from 01.01.2008 to 26.10.2017 also reflects several transactions of



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considerable amounts. The said statement further reflects credit entries towards dividend and mutual funds in the year 2014. The material placed on record also indicates that the husband had made investments in ICICI Prudential Tax Plan for ₹55,000/- and ₹31,000/- on 29.03.2017 and for ₹30,000/- on 30.03.2017, i.e., immediately prior to the close of the financial year 2016–2017. In this regard, the learned Appellate Court has also observed that such investments *prima facie* appear to have been made for tax saving purposes and indicate the existence of financial capacity beyond what is presently claimed by the husband. On the other hand, the husband has relied upon his Punjab National Bank account statement for the period from 21.08.2018 to 05.09.2021, which shows credit entries of ₹12,000/- from M/s Jeet Engineering Works, along with a letter of appointment dated 21.10.2019, to contend that he has been working as a Supervisor and earning a salary of ₹12,000/- per month. However, a perusal of the record reveals that the said appointment letter dated 21.10.2019 merely offered employment to the husband and required him to contact the concerned official within seven days, which indicates that he was not employed with the said firm prior to that date. Further, the first credit entry of ₹12,000/- in the bank statement appears only in December 2019. The learned Appellate Court has also observed in the impugned judgment that the husband has placed on record Income Tax Return Verification Forms for the assessment years 2014–2015 to 2018–2019, but significantly, the forms filed by him are in Form ITR-4, which pertains to income from business or



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profession. If the husband had been earning only a salary of ₹12,000/- per month after the alleged closure of his business in the year 2016–2017, as claimed by him, he would ordinarily have filed returns in Form ITR-1 meant for salaried individuals. Moreover, the husband has neither filed the computation of income accompanying the said returns nor placed on record the Income Tax Returns for the period after the assessment year 2018–2019.

16. This Court further is of the view that despite the wife having pointed out the existence of bank accounts and financial records relating to the husband and his firm, the husband has not placed on record any clear explanation regarding the status of those accounts or the circumstances in which the business activities allegedly ceased. In particular, no satisfactory explanation has been offered regarding the earlier accounts maintained in his name and in the name of the firm or the circumstances under which they were closed.

17. In these circumstances, this Court finds no reason to disagree with the observations of the learned Appellate Court that the husband appears to have withheld material information regarding his actual income and financial status. The material placed on record therefore *prima facie* indicates that the husband has not made a full and candid disclosure of his financial position.

18. Considering the fact that the husband claims to be earning only ₹12,000/- per month, which is even below the minimum wages applicable in Delhi, this Court finds no ground to accept such a claim



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at this stage. In this regard, following observations of this Court in *Tasmeer Qureshi v. Asfia Muzaffar*: 2025 SCC OnLine Del 7272 may be referred to:

“45. Another issue which is relevant to highlight is the practice in which the learned Family Courts, faced with non-disclosure or evasive disclosure of income by the husband or where a husband pleads that he earns nothing, proceed to assess earning capacity by resorting to the schedule of minimum wages. The underlying rationale is sound - an able-bodied man cannot be permitted to defeat a claim for maintenance by his wife by withholding basic financial particulars [Ref : *Shamima Farooqui v. Shahid Khan*, (2015) 5 SCC 705 : (2015) 2 SCC (Cri) 785 : (2015) 3 SCC (Civ) 274; *Rajnish v. Neha (supra)*], and the Family Court is entitled to draw an adverse inference and impute at least a baseline earning capacity. Minimum wages provide a statutory and reasonable basis to assess a person's earning capacity when there is no direct or reliable proof of actual income available on record.”

19. Therefore, the contention of the husband that he, despite being a graduate and having earlier run a proprietorship firm, is presently earning only ₹12,000/- per month after the separation between the parties, does not appear to be credible to this Court. As noted above, the material placed on record also indicates that the husband has not made a full and candid disclosure of his financial capacity and appears to have attempted to conceal his actual income and financial status. In these circumstances, this Court is of the view that the income of the husband cannot be assessed at less than ₹20,000/- per month.

20. It is an admitted position that the husband has no other dependents to maintain apart from the wife and the two minor



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children. In view thereof, this Court finds that the wife and the two minor children in her custody are entitled to interim maintenance in the sum of ₹13,000/- per month from the date of filing of the application under the PWDV Act. The said amount, considering the present cost of living and the needs of two minor children, cannot be said to be excessive or unreasonable.

21. It is also clarified that since the wife has already been awarded ad-interim maintenance of ₹7,000/- per month in the proceedings under Section 125 of the Cr.P.C., the said amount shall be set off/adjusted against the interim maintenance of ₹13,000/- per month directed to be paid in the present proceedings under the PWDV Act.

22. Needless to state, the contentions of the parties are yet to be tested during the course of trial when the parties will lead their evidence for the purpose of determining their actual income and financial capacity. In case the learned Trial Court, upon appreciation of the evidence on record, reaches a conclusion that the wife and the minor children are entitled to an amount lesser or greater than what has presently been awarded, the same shall be subject to the final order to be passed after conclusion of the proceedings before the learned Trial Court.

23. With these observations and directions, the present petitions, alongwith pending applications, are disposed of.

24. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.



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25. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

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