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

\# **CNR No. DLHC010512892026**

\+ CRL.REV.P.(MAT.) 646/2026 & CRL.M.As. 33454/2026, 33455/2026, 33456/2026, 33457/2026

SH RAJEEV KUMAR .....Petitioner

Through: Mr. V.K. Singh and Mr. S. Sisodia, Advocates.

versus

SMT JYOTI & ANR. .....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 27.10.2026

1. The Petitioner challenges the order dated 5th February, 2026, passed by the Principal Judge, Family Court, Rohini Courts, Delhi, in MT No. 408/2024, directing him to pay interim maintenance of INR 6,000/- per month to Respondent No. 1, his wife, and INR 2,000/- per month to Respondent No. 2, their minor son. The maintenance has been awarded from 29th August, 2024, i.e., the date of filing of the application, with a direction to clear the arrears in three equal monthly instalments.

2. The marriage between the parties is undisputed. They have two children: a daughter who is in the Petitioner's custody and a son who resides with Respondent No. 1. The parties have been living separately since 2023. In her maintenance petition under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"], Respondent No. 1 claims that she has no

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independent source of income and that the Petitioner has failed to maintain her and their son.

3. The Petitioner principally disputes the assessment of his earning capacity. In his income affidavit, he has disclosed that he is pursuing an LL.B. course and working as an intern, earning approximately INR 10,000/- to INR 12,000/- per month. He denies owning or operating the 'Life Care Diagnostic Centre' and deriving rental income from a property in Rohini. He also challenges Respondent No. 1's financial disclosures and contends that the Family Court assessed his earning capacity without supporting evidence.

4. Heard. The Family Court noted that Respondent No. 1 had produced no documentary evidence to substantiate her allegation regarding the Petitioner's income. It did not, therefore, accept the claim that the Petitioner was earning INR 1 lakh per month. Instead, it referred to the minimum wages notified by the Government of NCT of Delhi for a matriculate but non-graduate person and provisionally assessed his monthly earning capacity at approximately INR 22,000/-.

5. This assessment cannot be regarded as arbitrary merely because the Petitioner has disclosed a lower income. He is 37 years old, has completed his schooling up to Class XII and is pursuing B.A. LL.B. His reply before the Family Court also refers to his earlier employment at the diagnostic centre, although he disputes having any proprietary interest in that establishment. His present earnings as an intern do not necessarily represent the full extent of his earning capacity. In the absence of reliable material establishing his actual income, the Family Court was entitled to make a reasonable provisional assessment, using the notified minimum wages as a reference. Such an assessment does not amount to a finding that the

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Petitioner is actually receiving wages at the notified rate.

6. The Family Court referred to the notification effective from 1st April, 2025, although maintenance was awarded from 29th August, 2024. For the corresponding category, the notified monthly wages were INR 21,813/- from April 2024 and INR 21,917/- from October 2024. The marginal difference does not materially alter the provisional assessment of INR 22,000/- per month. Viewed against that assessment, the aggregate maintenance of INR 8,000/- per month for the wife and minor son cannot, by itself, be regarded as excessive.

7. The Petitioner's responsibility for the daughter residing with him is also a relevant consideration. Even after accounting for that obligation, the maintenance awarded cannot be said to be manifestly disproportionate so as to warrant interference at this stage.

8. The Petitioner's objection regarding Respondent No. 1's income also does not warrant interference on the material presently available. Although he asserts that she is educated and gainfully employed, no material has been placed on record to establish that she is presently employed or earning. In ***Sunita Kachwaha & Ors. v. Anil Kachwaha***[1], the Supreme Court considered a similar contention that the wife was a qualified postgraduate and was working as a teacher. The Court noted that no material had been placed before the Family Court or the High Court to prove her employment and earnings. It held that her qualifications alone were insufficient to establish that she could maintain herself. Further, in ***Shailja & Anr. v. Khobbanna***[2], the Supreme Court held that whether a wife is capable of

[1] (2014) 16 SCC 715.
[2] (2018) 12 SCC 199.

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earning and whether she is actually earning are two different requirements. The mere capacity to earn is not, by itself, sufficient reason to reduce maintenance. Respondent No. 1's educational qualifications, without material establishing her actual earnings, therefore do not justify reducing the maintenance awarded at this stage.

9. The Petitioner's objection regarding non-production of her bank statements may be considered by the Family Court after examining the financial records that Respondent No. 1 has been directed to produce.

10. The Petitioner next contends that the impugned order was passed without an effective opportunity of hearing, as neither he nor his counsel was present on 5th February, 2026. The matter was listed that day for arguments on the application for interim maintenance. By then, however, the Petitioner had filed his reply and income affidavit, both of which were on record before the Family Court. The impugned order also refers to these filings and takes note of the Petitioner's disclosed income. In these circumstances, the Petitioner's absence on the date fixed for arguments does not, by itself, establish a denial of opportunity sufficient to vitiate the order.

11. The direction to award maintenance from the date of the application accords with the principle laid down in ***Rajnesh v. Neha***[3]. The Supreme Court emphasised that the entitlement to maintenance should not be left to the uncertain date of disposal of the proceedings and that maintenance should ordinarily be awarded from the date of the application. As a consequence of the direction in the present case, arrears are payable for the period covered by the maintenance award. If the Petitioner faces genuine difficulty in complying with the prescribed instalment schedule, he may

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place the relevant financial material before the Family Court and seek appropriate directions regarding payment. Any such arrangement, however, would not absolve him of his liability to pay the maintenance awarded under the impugned order.

12. The revision petition also raises grounds concerning the subsequent order dated 1st August, 2026, whereby the Family Court struck off the Petitioner's defence for non-payment of interim maintenance. However, that order is distinct from the order impugned in the present revision and does not form the subject matter of the substantive relief sought herein. Its legality is, therefore, not being examined in these proceedings. No observation made herein shall be construed as expressing any opinion on the legality of that order.

13. The determination of interim maintenance necessarily rests on a *prima facie* assessment of the parties' financial circumstances. The competing claims regarding the Petitioner's actual income, including the allegations concerning the diagnostic centre and rental property, as well as Respondent No. 1's financial position, remain matters for consideration on the evidence. At this stage, however, the Family Court has adopted a reasonable basis for assessing the Petitioner's earning capacity by reference to the applicable minimum wages. The maintenance awarded bears a reasonable relationship to that assessment. No material illegality or perversity warranting interference in revisional jurisdiction has been demonstrated.

14. Accordingly, the revision petition is dismissed, along with the pending applications.

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[3] (2021) 2 SCC 324.

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15. The Family Court shall decide the maintenance petition on its own merits, uninfluenced by the *prima facie* observations made herein.

SANJEEV NARULA, J

OCTOBER 27, 2026
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