



2026:DHC:2818



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

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*Judgment reserved on: 16.01.2026**Judgment pronounced on: 04.04.2026**Judgment uploaded on: 04.04.2026*+ **CRL.REV.P.(MAT.) 77/2024 & CRL.M.A. 32505/2024**

ANURAG MANOHAR KANKERWAL

.....Petitioner

Through: Mr. Prateek Jain, Advocate.

versus

SOHAM RANI

.....Respondent

Through: Ms. Ruby Rani, Mr. Sunnirudh
Kumar and Mr. Ganesh Singh,
Advocates**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of present petition, the petitioner-husband seeks setting aside of the order dated 02.08.2024 [hereafter '*impugned order*'], passed by the learned Judge, Family Court-03, Shahadra, Karkardooma Courts, Delhi [hereafter '*Family Court*'], in MT No. 387/2020, *vide* which his application – seeking review of order dated 31.05.2023 passed by the learned Family Court, granting interim maintenance of Rs.25,000/- per month to the respondent-wife and minor son 'A' – was dismissed.

2. Briefly stated, the facts of the present case are that the



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marriage between the petitioner-husband and the respondent-wife was solemnised on 13.11.2013 as per Hindu rites and ceremonies. Out of the said wedlock, two male children, 'S' and 'A', were born on 25.08.2015 and 06.05.2017 respectively. However, owing to matrimonial discord between the parties, their relationship deteriorated and they started living separately in March 2019. It is stated that the elder son 'S' is presently in the custody of the petitioner-husband, whereas the younger son 'A' is in the custody of the respondent-wife.

3. Thereafter, on the basis of a complaint dated 31.08.2020 filed by the respondent-wife, FIR bearing No. 265/2020 was registered for offences under Sections 34/406/498A/354A of the IPC.

4. Subsequently, on 20.10.2020, the respondent-wife filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 [hereafter '*PWDV Act*'] against the petitioner-husband and his family members, levelling several allegations of mental, physical and economic abuse. It was also stated that the petitioner-husband was employed as a Junior Engineer in MCD and was earning about ₹80,000/- per month as salary, along with rental income of about ₹1,00,000/- per month. During the course of proceedings under PWDV Act, the statement of the respondent-wife was recorded by the learned Trial Court in on 14.03.2022, wherein she stated that a property in Rohini had been purchased in her name by the petitioner-husband in the year 2018 for about ₹40,00,000/-, for which the petitioner-husband had arranged the



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finances. She further stated that after their separation in April 2019, the said property was sold with her consent and she received about ₹40,00,000/- as sale consideration in her bank account. Out of the said amount, about ₹20,00,000/- was utilised towards repayment of a bank loan and the remaining amount was withdrawn by her. She further stated that the said amount had been spent by her during the years 2020 and 2021 towards the upkeep of herself and the minor child in her custody, and that about ₹2,00,000/- was still available with her for meeting her expenses. Eventually, *vide* order dated 28.02.2023, the learned Trial Court directed the petitioner-husband to pay ₹15,000/- per month to the respondent-wife and ₹10,000/- per month to the minor son 'A' as interim maintenance, with effect from the date of passing of the said order. The learned Trial Court further observed that the sale consideration amount of ₹20,00,000/-, which had admittedly been received by the respondent-wife, shall be adjusted towards the interim maintenance for the period from April 2019, i.e., when she had left the matrimonial home, till the date of passing of the said order, which would amount to about ₹40,000/- per month.

5. Aggrieved by the aforesaid order dated 28.02.2023, the petitioner-husband preferred an appeal under Section 29 of PWDV Act and the learned Appellate Court, *vide* judgment dated 01.04.2024, held that the interim maintenance amount of ₹25,000/-, and not ₹40,000/-, per month granted to the respondent-wife and the minor child ought to have been adjusted against the sum of ₹20,00,000/- admittedly received by the respondent-wife from the



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date of separation, i.e., April 2019, and that the said amount would accordingly cover the period till December 2025. Thus, it was directed that the amount of interim maintenance of ₹15,000/- per month payable to the respondent-wife shall become payable only with effect from 01.01.2026 till disposal of the petition. However, it was also observed that since the petitioner-husband had expressed willingness to pay towards the expenses of the minor son 'A', the amount of ₹10,000/- per month as interim maintenance for the minor child shall be payable from the date of passing of the order dated 28.02.2023.

6. ***Parallely***, in October 2020 itself, the respondent-wife had also filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] before the learned Family Court seeking maintenance for herself and the minor son 'A', which is the subject matter of the present petition. In the said proceedings, the learned Family Court, *vide* order dated 31.05.2023, granted interim maintenance in the sum of ₹25,000/- per month to the respondent-wife and the minor son 'A', after observing as under:

“4. Admittedly, there is no dispute of relationship between the parties and petitioners are wife and son of the respondent. Petitioners have leveled various allegations of cruelty, harassment and dowry demands against the respondent and his family members, whereas respondent has denied those allegations. Contrary to it, respondent has also levelled counter allegations against the petitioner No.1, but all such allegations/counter allegations are matter of trial and no conclusive opinion can be given at the stage. However, on the basis of these allegations/counter allegations, it may be assumed that the petitioners have *prima facie* to claim their maintenance against the respondent.



5. Admittedly, both the parties have filed their affidavits of income and assets. As per the affidavit of respondent, he is working as Junior Engineer with MCD and drawing a salary of more than Rs. 1,00,000/- per month. His last drawn salary in the month of December, 2022 was Rs. 1,02,753/-, out of which, he had deductions of Rs. 13,147/- towards NPS and income tax which are mandatory deductions. As such, net salary of the respondent is Rs. 89,606/- per month. However, counsel for respondent has argued that the petitioner has loan liability of Rs. 50 Lacs and paying EMI of this amount, but this loan was not availed by the respondent for the benefits of the petitioners, due to respondent is not entitled for deductions of this EMI out of his monthly earnings.

6. Respondent has dependency of his old aged parents aged about 81 and 88 years respectively besides having the responsibilities of his son aged about 7 years, who is school going. As such, respondent has dependency of 5 persons besides himself.

7. Admittedly, petitioners are wife and child of the respondent and both are legal as well as moral responsibility of the respondent, due to they are also entitled for maintenance. As such, monthly earning of respondent of Rs. 89,000/- has to be divided into 6 shares, out of which, two shares are to be kept for the respondent.

8. Keeping in view of the facts and circumstances, both petitioners are entitled for a consolidated maintenance @ Rs. 25,000/- per month from the date of filing of this application and during pendency of this case, payable on 10% of each succeeding calendar month. Arrears be paid within one month.”

7. It is pertinent to note that the order granting interim maintenance under the PWDV Act had been passed by the concerned Trial Court on 28.02.2023, wherein the amount of ₹20,00,000/- received by the respondent-wife as sale consideration had been taken into consideration. *However*, this aspect was not considered by the learned Family Court while passing the aforesaid order dated 31.05.2023 granting interim maintenance under Section 125 of the



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Cr.P.C. Accordingly, the petitioner-husband had filed a review application before the learned Family Court in this regard.

8. The said application seeking review of the order dated 31.05.2023 came to be decided *vide* the impugned order dated 02.08.2024. By this time, the learned Appellate Court in the proceedings under the PWDV Act had already passed the judgment dated 01.04.2024, as noted above. The learned Family Court dismissed the review application filed by the petitioner-husband seeking reconsideration of the interim maintenance order in light of the sale consideration received by the respondent-wife, on the following grounds:

“3. The second ground on which the review has been sought by the applicant/respondent is that a property in Sector-11, Rohini was purchased by the respondent from his own funds and by availing loan. However, the petitioner no.1 had later on sold this property and had kept the entire sale consideration amount to herself after repaying the loan amount of Rs. 20 Lakhs to the bank. It is submitted that the petitioner no.1 had wrongly withheld the remaining consideration amount of approximately Rs. 22 Lakhs with herself.

4. It is further submitted that the petitioner no.1 had filed a DV matter bearing case no. 2271/2020, which is pending in the Court of Ld. JMFC (Mahila Court, Shahdara, Karkardooma. In the proceedings of such DV matter, the Ld. Magistrate had recorded the statement of the petitioner no.1 on 14.03.2022 whereby she had admitted that she had withdrawn the remaining consideration amount of approximately Rs. 20 Lakhs from her own account and had spent such amount in the upkeep of herself and the minor child, during the year 2020 and 2021.

5. The grievance of the applicant/respondent is that such facts about utilization of the remaining sale proceeds by the petitioner no.1, was not dealt by the Ld. Predecessor Court while disposing off the IMA on 31.05.2023.

6. At this stage, a brief background of the developments of the



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litigation between the parties is relevant to be mentioned. As already mentioned above in the present petition u/s 125 Cr.P.C, the orders on the IMA had been passed by the Ld. Predecessor Court on 31.05.2023. In the DV matter filed by the petitioner no.1, as already mentioned above, the statement of the petitioner no.1 was recorded by the Ld. MM on 14.03.2022, and thereafter the interim application was disposed off by the Ld. MM vide order dated 28.02.2023.

7. While disposing off the interim application in the DV matter by the Ld. MM, a cumulative interim maintenance for the present petitioner no.1 and the minor child, Aarav, to the tune of Rs.25,000/- per month was fixed by the Ld. MM. It was also directed that interim maintenance will be with effect from the date of the order i.e., 28.02.2023. Also it was ordered that in view of the statement of the petitioner no.1, the Ld. MM had directed that an amount of Rs.40,000/-per month was to be adjusted from Rs. 20 Lakhs that was utilized by the petitioner no.1.

8. It is also a matter of record that an appeal u/s 29 of the DV Act challenging the order of the Ld. MM dated 28.02.2023 was filed. The Ld. ASJ while disposing of the appeal vide order dated 01.04.2024 had held that the adjustment of Rs. 40,000/- per month was incorrect and had ordered adjustment of Rs. 25,000/- per month from the amount of Rs. 20 Lakhs from the date of separation i.e., April 2019. Hence, it was held that the adjustment would completely be set off by 31.12.2025, and the petitioner no. 1 will be entitle for her share of maintenance from 01.01.2026. also, it was ordered by the Ld. ASJ that with regard to the minor child, Aarav, the respondent/husband shall pay Rs.10,000/- per month from 28.02.2023 till majority.

9. Also, it is a matter of record that the order dated 01.04.2024 passed by the Ld. ASJ has been challenged by the present respondent, and such criminal revision before the Hon'ble High Court is still pending.

11. As regards as the grievance of the applicant/respondent that his submissions and contentions with regard to the utilization of a part of the sale proceeds of the Rohini property by the petitioner no.1 had not been considered by this Court, it is pertinent to mention that the Ld. Judicial Magistrate had clearly passed her order dated 28.02.2023 taking into account these factors. An appeal was filed before the Ld. ASJ, where again the contentions with regard to utilization of the sale proceeds had been considered. Now the Hon'ble High Court is



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seized of the matter whereby the decision with regard to the quantum of adjustment/set off and the period is to be decided.

12. Hence, it does not lie for the respondent to seek review of the order dated 31.05.2023, that his contentions with regard to the utilization of sale proceeds had not been considered. Even if he had any such grievance, the proper course is not to file a review application and he must challenge the order dated 31.05.2023 before the higher forum.

13. Even if for the sake of argument, if this Court decides to consider the contention of the respondent with regard to the utilization of sale proceeds by the petitioner no.1, the same will create multiplicity of findings by different forums which will not be appropriate and desirable, especially in view of the fact that the Hon'ble High Court is already seized of the matter. Hence, the submissions of the respondent for seeking review of the order dated 31.05.2023 on the ground of non-consideration of his contentions, are declined.”

9. Thus, essentially, the learned Family Court was of the view that since the issue regarding the adjustment of the sale proceeds of the Rohini property had already been considered by the learned Trial Court and the learned Appellate Court in the proceedings under the PWDV Act, and the matter was also stated to be pending before this Court, it would not be appropriate for the Family Court to revisit the same issue in review proceedings, as it may result in conflicting findings by different forums.

10. Aggrieved by the aforesaid order, the petitioner has preferred the present petition.

11. It is apposite to note, at the outset, that another petition, i.e. CRL.M.C.5097/2024, was also filed by the petitioner-husband assailing the orders dated 28.02.2023 and 01.04.2024 passed in the proceedings under the PWDV Act, which was reserved for judgment



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upon conclusion of arguments on 16.01.2026.

12. The issues arising in both the petitions are substantially similar. Broadly, the questions that arise for consideration are whether the respondent-wife is entitled to interim maintenance, and if so, what would be the appropriate quantum thereof. Another issue relates to the manner in which the amount of ₹20,00,000/- received by the respondent-wife from the sale of the Rohini property is to be taken into account and adjusted while determining the interim maintenance payable to her and the minor child.

13. As noted in the preceding paragraphs, the quantum of interim maintenance determined in both sets of proceedings – i.e., in the present case under Section 125 of the Cr.P.C. as well as in the proceedings under the PWDV Act – is the same, i.e. ₹25,000/- per month payable towards the maintenance of the respondent-wife and the minor child. However, the aspect of adjustment of the amount of ₹20,00,000/- received by the respondent-wife was not considered by the learned Family Court while passing the order dated 31.05.2023 in the proceedings under Section 125 of the Cr.P.C. While deciding the review application, the learned Family Court observed that since the concerned Appellate Court in the proceedings under the PWDV Act had already expressed its view on the said issue and the matter was pending before this Court, it would be appropriate for this Court to adjudicate upon the same so as to avoid the possibility of contradictory findings by different forums.

14. Thus, essentially, similar arguments were addressed by the



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parties before this Court in the present petition as well as in CRL.M.C. 5097/2024 pertaining to the orders passed under the PWDV Act.

15. *Vide* separate detailed judgment of even date, this Court has disposed of CRL.M.C. 5097/2024, wherein the orders passed in the proceedings under the PWDV Act had been assailed. While adjudicating the said petition, this Court has, in a nutshell, held as under:

(i) At the stage of considering interim maintenance, the Court is only required to examine whether a *prima facie* case of grant of interim maintenance is made out; and the rival allegations and counter-allegations between the parties are matters of trial and cannot be conclusively determined at the stage of grant of interim maintenance.

(ii) The allegation of the petitioner-husband regarding the respondent-wife being in an illicit relationship cannot, at this stage, constitute a ground to deny interim maintenance, particularly when such allegations remain disputed questions of fact and are yet to be established by evidence.

(iii) Upon assessment of the income of the petitioner-husband and the financial circumstances of the parties, the determination of interim maintenance at ₹25,000/- per month in favour of the respondent-wife and the minor child is reasonable and justified in the facts and circumstances of the case.



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(iv) As regards the amount of ₹20,00,000/- received by the respondent-wife from the sale of the Rohini property, the said amount is liable to be adjusted against the interim maintenance payable to the respondent-wife and minor child.

(v) However, such adjustment cannot be made from the date of separation of the parties, as had been directed by the learned Courts below. In view of the settled legal position that interim maintenance is to be granted from the date of filing of the application, the adjustment of the said amount must also be computed from the date of filing of the application and not from the date of separation. Accordingly, the amount of ₹20,00,000/- is to be adjusted against the interim maintenance of ₹25,000/- per month from the date of filing of the application.

16. **Therefore**, it is deemed appropriate that a similar order is also passed in the present case so as to ensure consistency in the determination of interim maintenance between the parties in the parallel proceedings. In view thereof, it is directed that the amount of ₹20,00,000/- received by the respondent-wife from the sale of the Rohini property shall be adjusted against the interim maintenance amount of ₹25,000/- per month from the date of filing of the petition under Section 125 of the Cr.P.C., i.e., 23.10.2020. Consequently, the said amount shall stand adjusted for the corresponding period calculated at the aforesaid rate. Upon exhaustion of the said amount, the respondent-wife and the minor child shall thereafter be entitled to



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receive interim maintenance at the rate of ₹25,000/- per month in terms of the order dated 31.05.2023 passed by the learned Family Court, from 24.06.2027 onwards.

17. However, as laid down by the Hon'ble Supreme Court in ***Rajnesh v. Neha (supra)***, where maintenance is claimed and granted under different statutes, the Court has to ensure adjustment or set-off of the amounts awarded or paid in parallel proceedings. Accordingly, it is directed that any amount already paid or payable by the husband towards maintenance in either of the proceedings, i.e. Section 125 of Cr.P.C. or PWDV Act, shall be duly adjusted and set off against each other.

18. In above terms, the present petition, along with pending application, is disposed of.

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

20. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 04, 2026/A

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