



\$~33

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

+ CRL.REV.P.(MAT.) 174/2024 & CRL.M.A. 38703/2024

RAJAT

.....Petitioner

Through: Mr. Sauraj Yadav, Advocate
(through VC)

versus

SAPNA

.....Respondent

Through: Ms. Smriti Sinha and Ms. Aleena,
Advocates

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

27.03.2026

%

1. By virtue of the present petition under *Sections 438 and 442* of the Bharatiya Nagarik Suraksha Sanhita, 2023, read with *Section 19* of the Family Court Act, 1984, the petitioner, *inter alia*, seeks setting aside the order dated 17.08.2024 (***impugned order***), passed by the Court of Ld. ASJ-04, West District, Tis Hazari Courts, Delhi (***learned Sessions Court***), in CA no. 180/2023 in a case entitled as “*Rajat vs. Sapna*” whereby the learned Sessions Court has upheld the order dated 12.04.2023 passed by the learned Trial Court, as also reduction of interim maintenance fixed therein.

2. As per petitioner, after solemnizing marriage with the respondent on 16.02.2020 they were blessed with a girl child namely Evanshi on 26.11.2020. Differences *inter se* him and the respondent led to filing of various FIRs. Subsequently, the respondent filed a complaint under



Section 12 of the Domestic Violence Act, 2005 (***DV Act***) against the petitioner and his family members, whereby in the interregnum, an application for interim maintenance under *Section 23(2)* of DV Act was allowed by the learned Trial Court *vide* order dated 12.04.2023 calling upon the petitioner to pay an amount of Rs.9,750/- equally to his wife and their minor daughter. An appeal thereagainst by the petitioner before the learned Sessions Court has also been dismissed *vide* order dated 17.08.2024. As such, the earlier order dated 12.04.2023 passed by the learned Trial Court has been upheld.

3. Mr. Sauraj Yadav, learned counsel for the petitioner submits that the learned Sessions Court failed to consider the income affidavit of the petitioner and, in fact, the petitioner did not have any income at the time of filing of the present case since the petitioner was jobless and was searching for a job. More so, the fact that the respondent is an educated lady, doing a private job and earning Rs.20,000/- per month was completely ignored. He further submits that learned Trial Court passed the interim maintenance order as per Minimum Wages Act, 1948, which is a significant amount as the petitioner is unable to pay the maintenance amount to the respondent and their child.

4. *Per contra*, Ms. Smriti Sinha, learned counsel for the respondent controverting the aforesaid, submits that the learned Sessions Court has rightly passed the impugned order after appreciating all the facts, circumstances, submissions and documents placed on record and there is no infirmity or ambiguity in the impugned order. As such, she prayed that the present petition, being sheer misuse and gross abuse of process of law, is liable to be dismissed.



5. Heard the learned counsel for the parties and perused the documents on record.

6. This Court, at the outset, finds that the learned Sessions Court has duly applied its mind to the prevalent facts and circumstances for arriving at a conclusion in the well-reasoned order thereby asking the petitioner to pay the aforesaid interim maintenance to the respondent. The relevant extract thereof are as under:-

“12.In the absence of any credible evidence pertaining to the income of the appellant, the Ld. Trial Court has rightly assessed the income of the appellant. Ld. Trial Court has assessed the monthly income of the appellant as Rs.19,500/- per month in terms of the Minimum Wages Rules, Delhi. Ld. Trial Court has rightly awarded the interim maintenance of Rs.4875/- per month each as interim maintenance to the respondent (wife) and minor daughter inclusive of food, clothing, education, household and other necessary expenses to the respondent (wife) from the date of filing the application.

In view of the status of the parties, standard of living, reasonable wants of the complainant and advance age of the complainant, this Court is of the considered opinion that interim maintenance in the sum of Rs.9,750/- per month is just and reasonable. The aforesaid interim maintenance amount of Rs.9,750/- per month is neither excessive nor oppressive.

7. Interestingly, it is not in dispute that the petitioner is an able-bodied person and is also well within his means to not only earn for himself but also to take care of his wife and his minor daughter, at least, till the outcome of the petition filed under *Section 12* of the DV Act initiated by the respondent, as the respondent remains his legally wedded wife and his daughter is also naturally dependent upon him.



8. It is also worthwhile to note that the facts involved reveal that the petitioner was/ has been unable to show any document(s), showing his inability and/ or having loss of means to pay for the respondent and his minor daughter. Further, the learned Trial Court was dealing with a situation wherein the evidence is yet to be concluded, as such, keeping in mind the facts and circumstances, there is no reason for interference by this Court at this stage since the learned Trial Court will pass the final judgment deciding the issue of maintenance in due course.

9. Even otherwise, as held in the judgment passed by the Hon'ble Supreme Court of India in ***Amit Kapoor vs. Ramesh Kumar Chandra: (2012) 9 SCC 460***, it is trite law that interference is only permissible when there is some glaringly perversity, illegality, impropriety or there are inherent flaws in the impugned order, and that too of such a nature that no prudent person would have come to that conclusion. If that is not the case, this Court ought/ need not interfere with the impugned order.

10. In view of the aforesaid, as there is nothing on record and/ or otherwise which calls for this Court to set aside the impugned order, the present petition is dismissed.

11. At this stage, upon query, this Court has also been apprised by learned counsel for the parties that the proceedings under *Section 12* of the DV Act initiated by the respondent is on the verge of culmination as the proceedings before the learned Trial Court are fixed next for the completion of the cross examination of respondent. The same is also another relevant factor for non-interfering with the impugned order. In that event, the petitioner shall always be entitled to the benefit of the final outcome thereof, including the adjustments, if any, therein.



12. In view thereof, the learned Trial Court is, keeping the board position and pendency in mind, requested to adjudicate upon the same and make all endeavours to close the matter pending before it at the earliest in accordance with law.

SAURABH BANERJEE, J

MARCH 27, 2026/So