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

% *Date of Decision: 23.05.2025*

+ **CRL.REV.P. 914/2024 & CRL.M.A. 20923/2024**

RAJU BOSE

.....Petitioner

Through: Mr. Arvind Kumar Singh,
Advocate.

versus

SMT. RINKI BOSE

.....Respondent

Through: Mr. Abhinav Rathi, Advocate
(VC)

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J (ORAL)

1. By way of the present criminal revision petition, the petitioner seeks setting aside of the judgment dated 26.02.2024 [hereafter '*impugned judgment*'], passed by the learned Principal Judge, Family Courts, North-East District, Karkardooma Courts, Delhi, [hereafter '*Family Court*'] whereby the respondent has been awarded maintenance of ₹4,000/- per month from the date of filing of the petition i.e. 04.07.2018, along with maintenance of ₹2,000/- per month to the male child of the parties for a period of 11 months.

2. Briefly stated, the facts of the present case are that on 09.03.2000, the marriage between the petitioner and the respondent was solemnised, and out of the said wedlock, three children were



born, i.e. two daughters and one son. It is the case of the respondent that the petitioner is a habitual drunkard and he used to physically assault her under the influence of alcohol. Due to continuous instances of such assaults, the respondent herein had lodged a complaint on 08.03.2017 at Police Station New Usmanpur, Delhi. Thereafter, the petitioner-husband took the respondent, along with their two daughters, to her parental home and due to such marital discord, the parties have been residing separately since 08.03.2017. Presently, the two daughters are residing with the petitioner-husband, while the son is residing with the respondent-wife.

3. On 28.04.2018, the respondent-wife had filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] seeking maintenance. Pursuant to the said petition, the learned Family Court *vide* impugned judgment dated 26.02.2024 was pleased to direct the petitioner-husband to pay a sum of ₹4,000 per month to the respondent-wife, and ₹2,000 per month towards the maintenance of the minor son for a period of 11 months. Additionally, ₹10,000 had been awarded towards litigation expenses incurred by the respondent-wife.

4. The relevant portion of the impugned judgment is set out below:

“10.5 In view of the findings on Issue No. 1 above, a maintenance @ Rs.4,000/- (Rupees Four Thousand only) per month, is payable by the respondent to petitioner No. 1 from the date of filing of petition i.e. 04.7.2018. Respondent is also directed to pay Rs.2000/- per month as maintenance to petitioner No. 2 for 11 months. The litigation expenses of Rs.10,000/- inclusive of the expenses incurred for Special



Travel Arrangement of petitioner for conducting this case are also awarded.

Needless is to observe that any amount paid by the respondent to the petitioner by way of maintenance in any other case/proceedings and already paid by him in the present proceedings, shall stand adjusted against the amount accrued under this order. The order of interim maintenance already awarded to the petitioners is merged in the present order.”

5. Aggrieved by the impugned judgment, the petitioner-husband has preferred the present revision petition.

6. The learned counsel appearing for the petitioner argues that the impugned judgment dated 26.02.2024 suffers from several infirmities and illegalities. He draws this Court’s attention to the cross-examination of the respondent herein and states that the contradictions in her statement point out that she has falsely alleged the incidents of cruelty against the present petitioner. The learned counsel further disputes the authenticity of the complaints filed on the grounds of alleged incidents of cruelty against the present petitioner and rather contends that the petitioner himself has been a victim of desertion by the respondent herein. It is also argued that the respondent-wife was living in an adulterous relationship, and in view of Section 125 of Cr.P.C., the respondent herein is not entitled to maintenance. Therefore, it is prayed that the present petition be allowed and the impugned judgment be set aside.

7. The learned counsel appearing for the respondent, on the other hand, states that there is no infirmity with the impugned judgment, and the learned Family Court *vide* a detailed judgment and after



going through the record, has observed that the petitioner was not able to prove by leading any evidence that the respondent had been living in adultery. It is also argued that the learned Family Court had assessed the income of the petitioner on the basis of the minimum wages as were prevalent at the time of passing the impugned judgment. It is therefore prayed that the present petition be dismissed.

8. This Court has **heard** arguments addressed on behalf of both the parties and perused the material available on record.

9. The petitioner's primary argument is that the learned Family Court failed to give due consideration to his contention that the respondent herein had been living in an adulterous relationship and had deserted the petitioner. In this regard, this Court has carefully perused the impugned judgment and the Trial Court Record. It is noted that the learned Family Court has specifically dealt with this argument and observed that, although certain suggestions in this regard were put to the respondent-wife during her cross-examination by learned counsel for the petitioner, the same were categorically denied by her. Beyond this, the petitioner was unable to place any material on record to even prima facie establish that the respondent-wife had been living in a continuous adulterous relationship, if any.

10. With respect to the argument regarding the alleged falsity of the complaints filed before the police and there being certain contradictions in the testimony of the respondent-wife, this Court notes that it is a settled position of law that proceedings under Section 125 Cr.P.C. are summary in nature. The objective of the



provision is to alleviate the agony, anguish, and financial hardship of a woman who has been compelled to leave her matrimonial home, and to provide immediate and effective relief to her. In this regard, the observations of the Hon'ble Supreme Court in ***Rajnesh v. Neha: (2021) 2 SCC 324*** are as under:

“37. In *Chaturbhuj v Sitabai* this Court held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife by providing her food, clothing and shelter by a speedy remedy. Section 125 of the Cr.P.C. is a measure of social justice especially enacted to protect women and children, and falls within the constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution.

38. Proceedings under Section 125 of the Cr.P.C. are summary in nature. In *Bhuwan Mohan Singh v Meena & Ors.*, this Court held that Section 125 of the Cr.P.C. was conceived to ameliorate the agony, anguish, financial suffering of a woman who had left her matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children. Since it is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband was required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation, except on any legally permissible ground mentioned in the statute.”

11. Furthermore, while deciding cases under Section 125 of Cr.P.C., the standard of proof is not that of beyond reasonable doubt, as is applicable in criminal trials. The Hon'ble Supreme Court, in ***Rina Kumar v. Dinesh Kumar Mahto: Special Leave Petition (Crl.) No. 5896 of 2024***, has reiterated that proceedings under Section 125 Cr.P.C. are not criminal, but civil in nature. As the provision itself indicates, a wife is entitled to maintenance – if she establishes that her husband has refused or neglected to maintain her, and that she is unable to maintain herself. Thus, what must be proved is the refusal



or neglect to maintain, not cruelty *per se*. In this regard, it shall also be apposite to take note of following observations of Hon'ble Supreme Court in case of *Sunita Kachwaha & Ors. v Anil Kachwaha*: (2014) 16 SCC 715:

“7. The High Court has set aside the award of maintenance to the wife on the ground that the separate stay of the wife due to alleged dowry torture is not justified and that she has left the matrimonial house without any justifiable ground. As referred to by the Family Court, in her evidence, the appellant-wife has clearly stated that the respondent and his mother were physically and mentally harassing her on the ground that she has brought insufficient dowry. The Family Court referred to the evidence of the appellant at length and held that she has justifiable ground to stay away from the matrimonial house and the High Court was not right in interfering with such factual findings and upsetting the maintenance order.

6. The proceeding under Section 125 CrPC is summary in nature. In a proceeding under Section 125 CrPC, it is not necessary for the court to ascertain as to who was in wrong and the minute details of the matrimonial dispute between the husband and wife need not be gone into. While so, the High Court was not right in going into the intricacies of dispute between the appellant-wife and the respondent and observing that the appellant-wife on her own left the matrimonial house and therefore she was not entitled to maintenance. Such observation by the High Court overlooks the evidence of appellant-wife and the factual findings, as recorded by the Family Court.”

(Emphasis added)

12. In the present case, the respondent-wife examined herself as PW-1, and the petitioner-husband examined himself as RW-1. No other witnesses were examined by either party. The learned Family Court, in the impugned judgment, has noted that the respondent-wife had levelled categorical allegations of cruelty against the petitioner and also proved two complaints filed by her before the concerned



police authorities at P.S. New Usmanpur – one in March 2017 and the other in June 2018. Conversely, the judgment records that there was no substantial cross-examination of these allegations, barring mere suggestions by the petitioner’s counsel. Accordingly, it was held that the respondent-wife had valid grounds to leave the matrimonial home. This Court finds no error in the learned Family Court’s conclusion that the respondent had sufficient reasons to reside separately from the petitioner. In any event, this Court is of the opinion that a husband’s bald allegation of adultery against his wife, unsupported by any evidence, can by itself constitute mental cruelty upon the wife.

13. This Court is also of the view that the learned Family Court committed no error in assessing the petitioner’s income on the basis of minimum wages. It also rightly took into account the fact that the petitioner was responsible for the care of his two daughters and had to allocate part of his earnings for their welfare. The learned Family Court further noted, while passing the order, that the son who is currently in the custody of the respondent had attained the age of majority 11 months after the filing of the maintenance petition, and hence, ordered that he would be entitled to maintenance only till the date of attaining majority, i.e., for a period of 11 months.

14. There is also no infirmity in the learned Family Court’s reasoning, based on the affidavit of assets and liabilities filed by the parties, and the evidence led to the effect that the respondent-wife had no independent source of income. The petitioner-husband was



unable to produce any evidence to show that the respondent was employed or earning. Therefore, after assessing the petitioner's income at approximately ₹20,000/- per month based on minimum wages, the learned Family Court rightly awarded maintenance of ₹4,000/- per month to the respondent-wife.

15. This Court therefore finds this petition unmerited. The petition, along with pending application, is accordingly dismissed.

16. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 23, 2025/vc