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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 10th July, 2025

+ CRL.REV.P.(MAT.) 266/2025, CRL.M.A. 17180/2025

.....Petitioner

Through: Ms. Shilpa Ohri, Mr. Sanyam Khetarpal and Ms. Prakriti Anand, Advocates.

versus

.....Respondent

Through: Ms.Kajal Chandra & Ms.Hatneimawi, Advocates with Respondent.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Revision Petition under Section 438 read with Section 442 of Bhartiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as "BNSS"*) and Section 397 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C"*) has been filed on behalf of the Petitioner, [REDACTED] [REDACTED] for setting aside the Order dated 09.05.2025 of Ld. Judge, Family Courts, New Delhi vide which ***ad-interim maintenance*** in the sum of Rs.1,00,000/- per month has been granted to the Respondent, Smt. [REDACTED] Kaur.

2. ***Briefly stated***, the Petitioner [REDACTED] and Respondent, [REDACTED] got married on 03.04.2022 but because of their



matrimonial differences, they separated on 09.04.2023.

3. Respondent/wife, Smt. [REDACTED] Kaur filed a Petition under Section 144 BNSS seeking monthly maintenance, Notice of which was issued to the Petitioner, Sh. Gurpratap Singh.

4. It is asserted the Respondent, [REDACTED] is a highly qualified and accomplished individual with an extensive academic background and a strong professional trajectory. She holds Degrees of Bachelor of Arts in Psychology and Sociology, Master of Arts in Psychology with specialization in Organizational Behaviour, an Executive Post Graduate Diploma in Management (PGDM) and a Certification in Personnel Management and Human Resources.

5. Professionally, she has gained significant Industry exposure through her tenure at HCL Technologies, where she was engaged in high-level HR functions and was notably responsible for assisting Google as a client. In addition to her corporate experience, she has contributed meaningfully to the academic and policy research landscape. She served as a Project Junior Consultant at the National University for Educational Planning and Administration (under the Ministry of Human Resource Development, Government of India) in New Delhi.

6. It is further submitted that on 12.12.2024, during the pendency of the Petition, Parties were referred to Counselling in Family Court, New Delhi. Subsequently, on 24.03.2025, Parties were referred to Delhi High Court Mediation Centre in a connected matter between them in case No. WP(CRL.) 2968/2024 titled a [REDACTED]. State of NCT of Delhi and Anr..



7. From 12.12.2024 to 01.05.2024, the matter was adjourned before the Ld. Trial Court on account of it being pending before Mediation. On 01.04.2025, for the first time, the Respondent [REDACTED] served one of her Bank Statements to the Petitioner [REDACTED] after an inordinate delay and till date she has not filed her entire Bank Account Statements with the Income Affidavit. A bare perusal of the Bank Statement would show that the same are incomplete as the same does not even illustrate or show the available balance in her account.

8. On 01.05.2025, since the matter could not be settled between the parties, it was sent back to the Ld. Trial Court for adjudication. On 03.05.2025, parties had again shown an inclination towards an amicable resolution, but the Respondent, [REDACTED] insisted on an interim maintenance to be fixed. The Petitioner, [REDACTED] informed the Court that mediation had failed between them only two days earlier and it would take two weeks to file an 'apostilled' Income Affidavit under the signatures of the Petitioner [REDACTED] since he is based in Melbourne, Australia.

9. However, despite the request of the Petitioner, [REDACTED] the matter was fixed for 09.05.2025 directing the Respondent [REDACTED] appear through Video Conferencing. On the said date, the Petitioner, [REDACTED] led an Application seeking 15 days time to file the 'apostilled' Income Affidavit and Ld. Trial Court allowed the Application. *However, Ld. Trial Court vide Order dated 09.05.2025 granted ad-interim maintenance of Rs.1,00,000/- per month in favour of the Respondent and against the Petitioner, [REDACTED] without any basis.*



10. This Impugned Order dated 09.05.2025 has been challenged on the **grounds** that the Respondent, [REDACTED] a highly qualified and accomplished individual with an extensive academic background. Her excellence has been consistently recognized through several prestigious Awards and Honours including the International Award for Young People (IAYP), Silver Standard Level award by the Duke of Edinburgh Committee and Dean's Scholarship awarded by Clark University, USA. Furthermore, she was selected for the post of Junior Research Fellowship by the Defense Institute of Psychological Research, Government of India.

11. It is asserted that with her educational accomplishments she is capable of gainful employment, but has voluntarily chosen not to work. Her financial dependency is a matter of personal choice rather than necessity. She possesses the skills and capabilities necessarily to sustain herself financially and professionally. The qualifications possessed by her are not only sufficient for her getting employment, but also positions her as a valuable asset in any professional environment.

12. It is further submitted that *ad-interim maintenance Order dated 09.05.2025* has been made without considering the request of the Petitioner, [REDACTED] seeking 15 days time to file his duly '*apostilled*' Income Affidavit, since he was based in Australia, especially, because the Mediation was unsuccessful on 01.05.2025. Ld. Trial Court has failed to consider that submission of Income Affidavits by both the parties, is a crucial pre-requisite for determining the entitlement to *ad-interim maintenance*. Without examining the financial disclosures from both the side, the Court could not have made a fair and informed decision regarding



the temporary Maintenance Order.

13. Furthermore, it has not been considered that the Respondent does not bear the responsibility of supporting any child or parent, as her father is a retired Army officer and receiving substantial pension and enjoying various Government provided benefits. The law regarding maintenance is designed to support the women, who are helpless, uneducated or incapable of earning and not to those who deliberately choose to remain unemployed, while expecting to be supported by their husband.

14. It is further contended that the Impugned Order dated 09.05.2025 does not deal with the fact that Income Affidavit filed by the Respondent [REDACTED] as not accompanied by any Bank Statement. For the first time, the Respondent, [REDACTED] served one bank statement of ICICI Bank on 01.04.2025, bare perusal of which shows that it is incomplete as the same does not even illustrate or shows the available balance in her Bank Account. Furthermore, the Income Tax Returns reflect that she was maintaining two Savings Bank Accounts, but this has been completely concealed by her in her Income Affidavit.

15. It is submitted that since Petitioner [REDACTED] has now submitted his income and assets affidavit, the Court is in a position to make a fresh assessment of the Respondent, [REDACTED] entitlement to *ad-interim maintenance*, if deemed necessary. The Income Affidavit of the Petitioner [REDACTED] provides a comprehensive account of his financial status including his daily expenditure and source of income. This crucial financial disclosure enables the Court to evaluate the matter with greater clarity and fairness ensuring that any maintenance awarded reflects



an equitable balance between the parties' actual financial circumstances.

16. The Petitioner, [REDACTED] an Australian citizen, was under genuine belief that dispute between him and the Respondent Smt. [REDACTED] Kaur would be amicably settled through counselling and mediation. The proceedings were ongoing from 12.12.2024 to 01.05.2024, which explains lack of vigilant action on his part. Ld. Trial Court has disregarded this crucial timeline and Petitioner, [REDACTED] good faith participation in mediation, has resulted in miscarriage of justice.

17. It is claimed that urgency implied in granting *ad-interim maintenance* to the Respondent [REDACTED] was unwarranted, particularly when there is no pressing financial hardship that has been advanced. She has been maintaining luxurious lifestyle independently without any financial support from the Petitioner, [REDACTED]. The Impugned Order dated 09.05.2025 has been passed without fair appreciation of material facts and without assessing the balance of convenience. Ld. Trial Court, without making proper evaluation of the merits of the case and without duly examining the documentary evidence submitted by both the parties, has proceeded arbitrarily to fix *ad-interim maintenance of Rs.1,00,000/- per month, which is equal to AUD \$1,806/-*.

18. It is further contended that as per ITR filed by the Respondent, [REDACTED] her Annual Income was about Rs.12,21,689/- for the Assessment Year 2022-2023. Additionally, she earns interest from her saving bank accounts and FDs. She has intentionally omitted the complete disclosure in her Income Affidavit.

19. It has also been overlooked that Respondent, [REDACTED] as



been residing with her parents and has undertaken several luxurious international trips including USA and Italy. This conduct of the Respondent, [REDACTED] raises serious questions about necessity and justification for the substantial maintenance being claimed. On one hand, she is asserting financial dependency and seeking maintenance, while on the other hand, her action suggests a standard of living inconsistent with financial hardship, thereby undermining her claim.

20. Respondent has not made full disclosure in her income affidavit and is guilty of concealment and suppression of the particulars in terms of judgment passed by Apex Court in the case of *Rajneesh vs. Neha*, 2021 (2) SCC 324.

21. It is further stated that it has not been considered that Petitioner is an Australian citizen residing in Melbourne, Australia, which is known to be one of the most expensive country in the world with high cost of living driven by factors such as costly housing, groceries, transport and utilities. The comparative affordability of living in India means that any financial support or maintenance Application based on Indian living standard, would not only be disproportionate but also unnecessary.

22. Petitioner's existing lifestyle and financial life in Australia indicates that he is unable to manage his life expenses independently without requiring any support and loans. Presently, he has received financial contributions from his mother along with support from his friends and family members, to help funds his Entrepreneurial venture. Presently, he is facing challenges in managing the dual responsibility of investing in his business while also covering his personal living expenses in Australia.



Additionally, he does not possess any Credit Cards, Fixed Deposit Receipts (FDRs), Mutual Funds, or similar financial assets in his name.

23. Reliance has been placed on Smt. Farjana and Another vs. Rashid and Others, (2014) 16 SCC 715, wherein, Apex Court emphasise that “*the inability to maintain herself is a precondition for the grant of maintenance to the wife.*” It was further observed that the wife must explicitly assert and substantiate her claim of being unable to sustain herself in order to be eligible for maintenance.

24. Co-ordinate Bench of this Court in the case of Vijay Kumar vs. Harsh Lata Aggarwal in CM (M) ENo.539/2008 decided on 10.09.2008 observed that when Income of both husband and wife are almost similar and both almost equally qualified, there is no justification to grant interim maintenance to the wife.

25. Similarly, in the case of Gurpreet Dhariwal vs. Amit Jain, MAT. APP. (F.C.) 311/2019, it was observed by Division Bench of this Court that a lady having capacity to work cannot be allowed to sit idle and be burden on her husband for demanding maintenance and litigation expenses. It was concluded that the appellant can very well earn and support herself and declined to grant any maintenance.

26. Similarly, in the case of Rupali Gupta vs. Rajat Gupta, (2016) 234 DLT 693, it was observed by this Court that a very qualified spouse having the earning capacity but desirous of remaining idle, cannot set up a claim for interim maintenance. Similar observations have been made in the cases of Damanpreet Kaur vs. Indermeet Juneja, Crl. Rev. P. 344/2011; K. N. vs. R.G., MAT. APP (F.C.) 93/2018 and Mamta vs. Rajesh, (2000) 3 MP LJ



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27. *It is therefore submitted that ad-interim maintenance Order dated 09.05.2025 be set aside to be decided afresh in the light of Income Affidavit filed on behalf of the Petitioner [REDACTED] before the Ld. Trial Court.*

28. ***Ld. Counsel for the Respondent, [REDACTED] appeared on advance notice and submitted*** that she was working prior to her marriage with Petitioner [REDACTED] and soon thereafter, she shifted to Australia to be with him. Barely within a year, she had been turned out of the matrimonial home and was left high and dry on the road side. She had taken shelter in a Gurudwara and then contacted her family and friends to arrange a ticket for her to return to India. It is submitted that such life atrocities have been committed on her.

29. Undeniably she is qualified but had left her job at the time of her marriage with the Petitioner and presently she is residing with her parents and being supported by them. Merely because she is highly qualified, in the present situation, can it be considered as a ground from being provided with the *interim maintenance*, especially when it may take some time for her to get some employment for his sustenance.

30. It is submitted that the matter was pending for five months in the Mediation Centre and no money whatsoever was given to the Respondent, by the Petitioner for her day to day expenditures.

31. There was a delay in filing of Income Affidavit, which led Ld. Judge, Family Court to pass an *ad-interim maintenance* Order dated 09.05.2025, which was made after having due regard to the income and the business of



the Petitioner.

32. It is further submitted that Petitioner has not been honest in disclosing his true vocations and source of income. At one place, he said that he was taking care of family business, while on the other hand, he asserted that he was only working in his family business. He has also invested in his own AI startup and has sufficient source of income.

33. *Therefore, there is no infirmity in the Impugned Order dated 09.05.2025 and present petition is liable to be dismissed.*

34. **Submissions heard and record perused.**

35. Admittedly, the parties got married on 03.04.2022 but got separated on 09.04.2023, i.e. after about one year. There is no denial that Respondent, is highly qualified and has excellence skills in HR and may with an effort, be able to get a job. However, it cannot be overlooked that there is nothing to show that she is presently employed. It cannot be said that she has intentionally left the job, considering that she had left the job when she shifted to Australia after her marriage. Till such time she is able to get gainful employment or develop the source of income, she has a right of being supported and managed by the Petitioner, her husband.

36. Some contentions have been raised that it is the Indian standards, which have to be considered and not the Australian income for assessing interim maintenance. It is correct that being in Australia, the expenses may be different from those in India, but it cannot be overlooked that the incomes are accordingly different. Petitioner residing in Australia is earning in Australian Dollars, though when it comes to giving money in India, even Rs.1,00,000/- also as per his own calculations come to about AUD \$1806.



37. Ld. Judge, Family Court, in the Impugned Order dated 09.05.2025 has considered in detail that the submissions were that Petitioner is not only running the family business, but is only assisting and also planning to start an AI startup. Ld. Judge observed that though there was twisting of words by Ld. Counsel for the Petitioner in claiming that he was only assisting in family business, but it was in fact stated by the Petitioner [REDACTED] in the Court that he was running the family business. He, on asking, was not willing to disclose his monthly income, but when asked about his current expenses, he stated that it is around 500-600 AUD.

38. The Respondent, on the other hand had pointed out that the Petitioner, was running the business in the name of SIEC Private Limited and was a Director in this Company, which is a Multi-National Company and that he continues to be the Director till date. At the time of marriage, it was represented that he was a multi-millionaire, which continues till date.

39. Ld. Judge, Family Court thus, considered the financial and economic status of the Petitioner from the submissions made in the Court as he was handicapped with no true disclosures of income, despite asking specifically in the Court.

40. It cannot be overlooked that the ***Order of maintenance dated 09.05.2025 is only ad-interim which implies that the interim maintenance Order shall be made after considering the affidavit of income, which has been filed subsequent to this Order and also by considering the financial capacity and responsibilities of both the parties, aside from their personal qualifications.***

41. To say at this stage that by granting maintenance to the Respondent



despite her earning capacity, would be breeding a class of idle women who being a burden on their husband, may be premature and unwarranted especially considering that it is only an ***ad-interim maintenance Order*** to *provide immediate relief to the lady till such time the interim maintenance application is decided.*

42. The entire argument that this Order dated 09.05.2025 has been made prior to filing of the Income Affidavit by the Petitioner, is not tenable. The stage of considering the respective Income Affidavits, is yet to come. It is hereby clarified that this is only an *ad-interim maintenance Order*, which obviously would be subject to the *interim maintenance* that may be decided after considering the income affidavits, documents, etc. and contentions of the parties.

Conclusion:

43. There is no merits in the present Petition, which is hereby dismissed. However, the observations made herein are not expression on the merits of the case. Parties are at liberty to make their rival contentions before learned Judge, Family Court, while interim maintenance Application is being considered.

44. Petition along with pending Application, if any, disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JULY 10, 2025

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