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

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Judgment reserved on: 24.12.2025

Judgment pronounced on: 05.01.2026

Judgment uploaded on: 09.01.2026

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CRL.REV.P. 409/2024 & CRL.M.A. 9309/2024



.....Petitioner

Through: Mr. L. K. Singh and Mr. Raj Kumar, Advocates

versus

Redacted party name & ANR.

.....Respondents

Through: Mr. Rajiv Shrivastava and Mr. Aftab Ahmad, Advocates

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. The present revision petition has been filed by the petitioner-husband seeking setting aside of the order dated 11.10.2023 [hereafter '*impugned order*'], passed by learned Judge, Family Court, New Delhi District, Patiala House Courts [hereafter '*Family Court*'] in Maintenance Petition No. 55/2021, filed by the respondent no.1-wife under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] *vide* which interim maintenance in the sum of ₹20,000/- per month was granted in favour of the respondents.



2. Briefly stated, the facts of the present case are that the petitioner and respondent no.1 were married and the factum of marriage is not in dispute; however, owing to matrimonial discord, the parties started living separately, with respondent no.1 alleging that she was compelled to leave the matrimonial home due to physical assault and cruelty committed upon her. From the wedlock, a son was born on 07.11.2012 who is in the custody of the petitioner-husband, while the daughter born on 11.02.2017 (i.e. respondent no.2) is in the custody of respondent no.1-wife.

3. Respondent no.1 filed an application under Section 125 of the Cr.P.C. seeking maintenance from the petitioner, contending that due to lack of adequate accommodation, she had shifted to rented premises on 11.02.2021 and was paying rent of ₹7,000/- per month. She further alleged that the petitioner owned properties at Munirka fetching rental income, possessed another flat, and was engaged in property dealing besides working on contractual basis with MCD, on which basis maintenance of ₹75,000/- per month for herself and ₹50,000/- per month for the minor daughter was claimed. The petitioner denied these allegations, asserting that he owned no such properties, had no rental income, and was earning only ₹13,500/- per month from his contractual employment with MCD, while alleging that respondent no.1 herself was earning ₹50,000/- per month from a beauty parlour.

4. The learned Family Court, upon examining the income and expenditure affidavits and bank statements, found that the petitioner's



expenditure pattern did not align with his claimed monthly income of about ₹13,500/-, and it noted frequent withdrawals inconsistent with disclosed heads of expenditure, absence of regular rent payments, and recurring fuel-related transactions despite denial of vehicle use, and further took note of material showing his engagement in property dealing under the name [REDACTED]; accordingly, concluding that the petitioner had concealed his true income. The learned Family Court assessed his monthly income to be not less than ₹60,000/-, and it also found no material to substantiate the allegation regarding respondent no.1's earnings, and directed payment of ₹20,000/- per month as interim maintenance to respondent nos.1 and 2. The findings of the learned Family Court are as under:

“8. Having heard rival submission file perused. There is no dispute that petitioner No. I is married to respondent and both of them were blessed with two children. Petitioner No.2 is the daughter of the petitioner and respondent. It is also not in dispute that daughter i.e. petitioner No.2 is living with petitioner No. I and son of the parties is living with the respondent. It is also not in dispute that parties are living separately since 27.01.2021. Both petitioner No.1 and respondent have allegation and counter allegation against each other which are contentious in nature and cannot be adjudicated without evidence of the respective parties.

9. Respondent being husband of petitioner No. I and father of petitioner No.2 is under legal obligation to maintain them if they are unable to maintain themselves. Petitioner No. I claimed herself to be without any source of income and dependent upon her father for her and her daughter's day to day expenses whereas respondent claimed that she was running freelance beauty parlour, earning handsomely and capable to maintain herself. Petitioners claimed that respondent has rental income of Rs. 1,50,000/- from two houses in the locality of Munirka besides a 2BHK flat on Sohna Road and doing the business of property dealer and also work with MCD on contractual basis. Respondent denied all this and submitted that he was working in MCD as C.F.W. (Health Deptt.) on contractual basis and getting Rs. 14,000/- a month with which it was difficult for him to maintain himself and the son.



10. In her income affidavit, petitioner No. I claimed her general monthly expenses to be Rs. 50,000/- per month. Her expenditure towards the daughter's food, clothing and medical expenses is Rs. 15,000/- per month, Rs.5,000/- pm towards expenses for education and summary general expenses and Rs. 1,500/- pm towards tuition fee of the daughter. Thus, she spend Rs. 21,500/- per month on the daughter. She claimed that she borrowed Rs. 7.5 lacs from the relatives for livelihood and education of the petitioner No.2. Although in her affidavit she claimed to have attached statement of bank account of 31 years but in reality no bank account statement was filed.

11. Respondent in his income affidavit claimed that he was 10th pass and living in a rented accommodation with his son. His general monthly expenses is Rs. 13,500/- per month out of which Rs. 7170/- is towards the school fee of the son and Rs. 4,500/- towards rent. He has claimed that his expenditure on his son are Rs. 500/- towards toys/recreational activities, Rs. 2,500/- to Rs. 3,000/- towards food, clothing, medical and Rs. 7,170/- towards education and a summary general expenses. His monthly income is Rs. 13530/- by way of salary from his contractual job with MCD as C.F.W. (Health Deptt). He placed on record his statement of bank account for three years w.e.f 20.11.2018 to 18.11.2021 along with his salary slip from MCD which show net take home of Rs. 13,530/-.

12. On deeper scrutiny, his expenses are found to be more than what he claims to earn. As per him he spend Rs. 7170/- on education, Rs. 4500/- on rent, Rs. 2,500/- to 3,000/- on foods clothing and medical on son, Rs. 500/- on toys/recreational activity total go to make Rs. 13,670/- to Rs. 14,170/- per month and this does not include his own expenses. Where does he get his own food from, is not known.

13. Further perusal of statement of bank account shows that withdrawal pattern does not tally with pattern of expenditure claimed. Almost every alternate day there are four to five withdrawals of small amount like- Rs. 253/-, Rs. 300/-, Rs. 150/-, Rs. 500/- Rs. 300/Rs. 500/-, Rs.170/-, Rs. 80/-, Rs. 160/- etc. These payments are not towards grocery, school fee etc. for his poorly projected household. Given the heads of expenditure pointed by the respondent over which he had been spending his salary, the withdrawal from his account completely irreconcilable. In the entire three years, there have not been any withdrawal for school fee payment, there is no regular withdrawal of Rs. 4,500/- per month for payment of rent. Further, payment to person/entities such as Sabharwal Services, One97 Communication, Diamond Bakers, Saran Motors Pvt. Ltd., Norling Restaurant, True Link Finance, Lahore, Chola Mancalam, Moolchand Motors, Addidas, Qutoo Service Station, Mansi Motor Parts, Bharat Petroleum, Rajkumar Service Station, Nagpal Fashion Centre, Nishibo, Helmet South, Burger In,



Sant Service, Subway, Hotel Green Height, Hare Krishna fuels etc., cannot be said to be payment towards grocery, school fee of the son, rent, education as claimed by the respondent. Although respondent did not claim to be using any bike or car nor with such income he could afford but his statement of bank account frequently show payments to services stations some of them named after Bharat Petroleum and others as Service Station. As withdrawal pattern does not matches with the head of expenditure shown by hir.: in his affidavit of income and expenditure, this leave no doubt in the mind of the court that respondent has concealed real income from the court. His salary from MCD is merely an eye wash. He does appear engaged in side business of property dealer which he claimed to have been engaged long ago.

14. It is also relevant to note that petitioner has placed on record from Just Dial to show that respondent has been doing business of property dealing by the name of Neel Associate which record carry respondent's mobile number 9999744370. Respondent during the argument admitted that phone number belonged to him but submitted that he used to run said business many year ago and had left it as he was unable to make money from there. It has already been found that the discrepancy as reflected in the withdrawal pattern manner with the head of expenses as pleaded by the respondent led this court to hold that respondent did not come forwards with his real income. His explanation that he had left the business of property dealer long ago also appears an afterthought and hence, not reliable.

15. Persons engaged in unorganized sector often become successful in concealing their real income not only from spouse but also from income tax authorities. In the property business, 70% of the transaction are held in unaccounted money and therefore income generated from there also remain unaccounted. This pose serious problem for the court to estimate the income of the person engage in property dealer business. Hence, court has to embark on guess work for estimating the earning of the respondent particularly for the purpose of determining maintenance. Physical appearance is one such factor which court could take note of. As per pleaded case of the respondent his entire monthly income is spent on his son's education and on rent leaving him with no money for his food but his physical appearance belie the same. Keeping in mind the expenditure pattern as reflected from the his statement of bank account, his monthly income is guesstimated to be not less than Rs/ 60,000/- a month.

16. Further, apart from vague allegation that petitioner was running a freelance beauty parlour nothing could be brought on record that she has any earning or source of income, even though monthly expenses shown by the petitioners also does not look realistic given the financial condition of parent of petitioner No. I. In any case there is



nothing to suggest an iota of about petitioner No. 1's income. Hence, respondent is under obligation to pay from hi_s guesstimated income of Rs. 60,000/- per month.

17. Accordingly, respondent is hereby directed to pay Rs. 20,000/- per month towards the maintenance of the petitioner No. 1 and 2 w.e.f date of petition till further order.

18. Any amount paid shall stand adjusted. Arrear of maintenance be paid in 24 equal monthly installments along with current monthly payment by 10th of every month.

19. Interim application stand disposed of accordingly.”

5. The learned counsel appearing for the petitioner-husband argues that the impugned order cannot be sustained, either on facts or in law, as it is premised more on assumptions than on material placed on record. It is argued that the petitioner had consistently maintained before the learned Family Court that he was earning only about ₹13,500/- per month from his contractual engagement with the MCD and that he was managing his expenses, as well as those of the minor son in his custody, with the financial support of his parents. In such circumstances, the learned counsel contends that the detailed and rigorous scrutiny of the petitioner's bank statements and expenditure was unnecessary and unwarranted at the stage of interim maintenance. It is further submitted that the learned Family Court erred in drawing adverse inferences from occasional petrol-related transactions reflected in the bank statements. According to the petitioner, such expenditure could well be explained by the borrowing of a vehicle for emergent or occasional purposes, and no presumption of a higher income or ownership of a vehicle ought to have been drawn on that basis alone. The learned counsel also



contends that the learned Family Court failed to adopt a consistent approach while assessing the financial position of both parties. It is pointed out that respondent no.1 herself claimed monthly expenditure of about ₹50,000/-, yet admittedly did not place her bank statements on record. Despite this, no adverse inference was drawn against her, nor was any explanation sought regarding the source of such expenditure. According to the petitioner, this circumstance clearly indicated that respondent no.1 was financially independent and gainfully employed, a factor which ought to have weighed with the learned Family Court. It is further argued that both parties were bearing parental responsibilities, with one child residing with each of them. In this backdrop, fastening the entire burden of maintenance of ₹20,000/- per month upon the petitioner is excessive and unreasonable. The learned counsel argues that the learned Family Court also failed to give due consideration to the petitioner's categorical stand that his parents were supporting both him and the minor child in his custody, which was a relevant factor while assessing both the need and the quantum of interim maintenance. Lastly, the learned counsel contends that the observations of the learned Family Court regarding concealment of income in the unorganised sector are also misplaced. It is argued that, if such reasoning were to be applied, it would equally, if not more, apply to respondent no.1, who was stated to be spending nearly ₹6 lakhs per annum without disclosing any lawful source or supporting material. On these grounds, it is contended that the impugned order suffers



from serious infirmities and accordingly, the impugned order deserves to be set aside.

6. The learned counsel appearing for the respondents argues that the impugned order passed by the learned Family Court is fair, reasoned and fully in consonance with settled principles of law, and therefore does not call for any interference by this Court. It is argued that respondent no.1 and the minor daughter are facing genuine financial difficulty, particularly in view of the rising costs of education, rent, medical care and day-to-day household expenses. The learned counsel points out that the marriage between the parties was solemnised on 28.11.2011 and that two children were born from the wedlock. While the son is presently residing with the petitioner, the minor daughter remains in the care and custody of respondent no.1-wife. It is submitted that respondent no.1 was subjected to cruelty and repeated dowry demands soon after the marriage, which progressively intensified. During her second pregnancy, she was allegedly assaulted, leaving her with no option but to leave the matrimonial home. It is further contended that due to lack of adequate space at her parental home, respondent no.1 was compelled to shift to a rented accommodation in February 2021 along with her daughter. Since then, she has been solely bearing the responsibility of the child's upbringing, education and daily needs. The learned counsel also disputes the petitioner's plea of limited income and argues that the petitioner is actively engaged in the real estate business under the name "Neel Associates", apart from earning rental income and



working with the MCD on a contractual basis. It is also pointed out that the petitioner comes from a financially secure family and continues to receive support from his parents. In these circumstances, it is urged that respondent no.1 and the minor daughter are entitled to maintenance that is commensurate with the petitioner's true earning capacity and standard of living. On these grounds, learned counsel prays that the present petition be dismissed.

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

8. The present petition has been filed by the petitioner-husband assailing the order passed by the learned Family Court whereby interim maintenance has been awarded in favour of respondent No.1-wife and respondent No.2, the minor daughter. The grievance of the petitioner is that the learned Family Court erred, both on facts and in law, in assessing his income and in fastening upon him the liability to pay maintenance to the tune of ₹20,000/- per month.

9. At the outset, this Court notes that certain foundational facts are not in dispute. The marriage between the parties and the birth of two children from the wedlock stand admitted. It is also undisputed that the parties have been living separately since January 2021; that the minor son is presently residing with the petitioner-husband; and that the minor daughter is in the care and custody of respondent No.1-wife. The allegations and counter-allegations raised by the parties touching upon cruelty, income and conduct are clearly



contentious in nature and are subject matter of proceedings pending between them.

10. At the stage of consideration of interim maintenance, this Court is neither expected nor required to embark upon a detailed inquiry or conduct a mini trial to resolve such disputes conclusively. The exercise at this stage is limited. The Court is only required to examine, on a *prima facie* basis, whether the spouse and the minor child seeking maintenance are unable to maintain themselves and whether the person against whom maintenance is claimed has the means to provide such support.

11. The obligation of a husband to maintain his wife and minor children, where they are unable to maintain themselves, is firmly embedded in law. This obligation flows not only from Section 125 of the Code of Criminal Procedure but also from the larger social and constitutional objective of preventing vagrancy and destitution. Proceedings for maintenance are, by their very nature, meant to provide immediate relief and basic subsistence. They are not intended to penalise a spouse, nor to finally adjudicate the rights and liabilities of the parties.

12. In the present case, this Court is of the view that the mere fact that one child is in the custody of the petitioner-husband cannot, by itself, be a ground to absolve him of his obligation to maintain respondent no.1-wife and the minor child residing with her. The responsibility of maintenance does not stand divided merely because



each parent has custody of one child. If the wife is not working and has no independent source of income, the husband continues to be under a legal obligation to provide maintenance to the wife and the minor child in her custody, irrespective of whether the other child is residing with him. The position would remain the same even if both children were in the custody of the wife. At the same time, while determining the quantum of maintenance, the Court would necessarily take into account the fact that one of the children is residing with the petitioner-husband and that he is bearing the expenses of that child. This factor is relevant for assessing the appropriate amount of maintenance, but it does not, in itself, negate the husband's liability to pay maintenance.

13. In the present case, respondent no.1-wife asserted that she had no independent source of income and was largely dependent upon support from her parents, whereas the petitioner alleged that she was gainfully employed and earning substantial amounts. The learned Family Court examined these rival assertions and, in this Court's view, rightly observed that beyond bare allegations, no material whatsoever was placed by the petitioner to show that the wife was running a beauty parlour or had any regular source of income. No documentary record or any supporting material was produced even at a *prima facie* level in this regard. In the absence of such material, the learned Family Court was justified in declining to draw any adverse inference against respondent no.1 at the stage of interim maintenance, on this count. However, it is relevant to note that the respondent no. 1



did not file her bank account statements before the learned Family Court.

14. The petitioner, on the other hand, asserted that his only source of income was a contractual engagement with the MCD, yielding about ₹13,500/- per month. This claim was closely examined by the learned Family Court. In this Court's view, the learned Family Court did not proceed on surmises and conjectures, but analysed the petitioner's own income and expenditure affidavit alongside his bank statements for a substantial period. A clear inconsistency emerged from the said analysis. The expenses claimed by the petitioner towards his son's education, rent and household needs, taken together, exceeded his stated income, even before accounting for his own basic expenses such as food and personal necessities. This alone rendered the petitioner's version difficult to accept. More importantly, the pattern of transactions reflected in the bank account statements did not support the projected picture of subsistence on the claimed monthly contractual salary of ₹13,500/-. There were frequent withdrawals of small amounts, often multiple times within short intervals, and no identifiable or regular withdrawals corresponding to payment of rent or school fees, which the petitioner claimed to be incurring monthly. In addition, the bank account statements reflected recurring payments to fuel stations, service centres, restaurants, retail outlets and other commercial establishments. These transactions were wholly inconsistent with the petitioner's pleaded case that his income barely sufficed for survival and that he did not own or use any



vehicle. The explanation offered – that such transactions could be incidental or occasioned by borrowing a vehicle – did not satisfactorily reconcile the overall pattern of expenditure emerging from the record. The inference of concealment of income by the petitioner-husband was further reinforced by material placed on record indicating the petitioner's engagement in real estate activities under the name "Neel Associates". Third-party listings bearing the said name and linked to the petitioner's mobile number were produced before the learned Family Court. Although the petitioner claimed that such activity was carried on in the past and had since been discontinued, this explanation was found unpersuasive, particularly when viewed alongside the unexplained financial transactions reflected in his bank statements.

15. Viewed cumulatively, this Court is satisfied that the learned Family Court's assessment was not based on mere suspicion, but on a holistic appreciation of the material available. The learned Family Court has also correctly noted that persons engaged in unorganised or semi-formal sectors, such as property dealing, often do not have neatly documented income streams. In such situations, the Court cannot be expected to insist on mathematical precision. A reasonable and pragmatic assessment, drawn from surrounding circumstances, expenditure patterns and lifestyle indicators, is both permissible and necessary. The approach adopted by the learned Family Court, therefore, cannot be characterised as perverse or speculative.

16. That said, this Court is conscious that the assessment of



income in proceedings for interim maintenance cannot be an exercise in mathematical precision. The material on record, while clearly indicating suppression of the petitioner's true income, also calls for a cautious and balanced approach. Having regard to the overall facts and circumstances of the case, including the nature of the material relied upon, the absence of direct proof of fixed monthly earnings beyond the contractual engagement, and the fact that the petitioner is also maintaining the minor son in his custody, this Court is of the considered view that the ends of justice would be adequately met by assessing the petitioner's monthly income at ₹50,000/- for the purpose of interim maintenance.

17. Accordingly, in modification of the impugned order, the petitioner is directed to pay a consolidated sum of ₹17,500/- per month towards interim maintenance to respondent Nos.1 and 2. The said amount shall be payable from the date of filing of the application for interim maintenance, subject to adjustment of any amount already paid.

18. Arrears, if any, shall be cleared in such manner as may be directed by the learned Family Court.

19. Accordingly, the present petition is disposed of in above terms. Pending applications, if any, also stand disposed of.

20. It is clarified that the observations made hereinabove are strictly confined to the adjudication of the application for interim maintenance. The same are based on a *prima facie* assessment of the



material placed on record at this stage and shall not be construed as an expression on the merits of the case; and the main petition shall be decided on the basis of evidence led by the parties and in accordance with law.

21. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JANUARY 05, 2026/vc

T.S.