



REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. OF 2024
(Arising out of SLP (C) Nos.21710-21711 of 2024)

...APPELLANT(S)

VERSUS

...RESPONDENT(S)

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.
2. The present appeals arise out of the impugned order dated 01.08.2024 passed by the Delhi High Court in MAT. APP.(F.C.) 226/2018 & CM APPL. 36723/2018. CM APPL. 4245/2021. CM APPL. 51379/2022, CM APPL. 52044/2022 and MAT.APP. (F.C.) 120/2019. Vide the impugned order, the High Court dismissed MAT. APP. (F.C.) 226/2018 filed by the Husband against the order of the Family Court, in an application for maintenance *pendente lite* under

section 24 of the Hindu Marriage Act, 1955¹ along with all pending applications, with costs of Rs. 1,00,000/- (Rupees one lakh only). By the same common order, the MAT.APP. (F.C) 120/2019 filed by the Wife is allowed to the extent that the interim maintenance granted to the Wife under Section 24 of the HMA is enhanced from Rs.1,15,000/- (Rupees one lakh fifteen thousand only) to Rs.1,45,000/- (Rupees one lakh forty five thousand only) per month from the date of filing of enhancement application.

3. The parties were married as per Hindu rites and ceremonies on 13.12.1998 and have one son born from their wedlock on 28.05.2001. However, the marital relationship soured and the parties began living separately from January, 2004. Since the date of separation, the son has been residing with the respondent-wife. Subsequently, on 11.05.2004, the appellant-husband filed a petition under Section 13(1)(ia) of the HMA, before the Family Court seeking divorce on the ground of cruelty. During the pendency of the divorce petition, the respondent, on 27.05.2004, filed an application under Section 24 of

¹ HMA

the HMA seeking *pendente lite* maintenance for herself and the son. This application was disposed of by the Family Court vide order dated 20.09.2004, directing the appellant to pay a cumulative sum of ₹18,000/- (Rupees eighteen thousand only) per month, comprising ₹15,000/- (Rupees fifteen thousand only) to the respondent and ₹3,000/- to the son.

4. Both parties challenged the Family Court's order through separate appeals before the High Court. Consequently, vide order dated 21.11.2005, the High Court enhanced the maintenance amount to ₹20,000/- (Rupees twenty thousand only) per month, allocating ₹15,000/- (Rupees fifteen thousand only) to the respondent and ₹5,000/- (Rupees five thousand only) to the son. Subsequently, the respondent filed an application under Sections 24 and 26 of the HMA, seeking further enhancement of interim maintenance. In her application, she claimed an enhanced amount of ₹1,45,000/- (Rupees one lakh forty five thousand only) per month, contending that the appellant's income had increased significantly, exceeding ₹4,00,000/- (Rupees four

lakhs only) per month, inclusive of salary, perks, allowances, and bonuses. She further argued that the financial needs of both, her and the son, had increased manifold since the prior determination of maintenance.

5. During the pendency of the application, the appellant, in July 2015, voluntarily increased the interim maintenance to ₹65,000/- (Rupees sixty five thousand only) per month. He agreed to pay ₹50,000/- (Rupees fifty thousand only) to the respondent, effective from the date of filing the enhancement application on 28.02.2009, and ₹15,000/- (Rupees fifteen thousand only) to the son, effective from July 2015. However, the appellant contended that following the dismissal of his divorce petition on 14.07.2016 upon being withdrawn by him, the Family Court had become *functus officio*, rendering it incapable of granting any further relief under Sections 24 and 26 of the HMA. He also submitted that the provisions of Section 26 of the HMA do not permit granting of maintenance to an adult male child.

6. The respondent's application for enhanced interim maintenance rested on her assertion of significant changes in circumstances since the last maintenance order, including the increased financial requirements of herself and the son. On the other hand, the appellant's position focused on the legal implications of the withdrawal of his divorce petition and the applicability of Section 26 of the HMA concerning the maintenance of an adult male child.

7. The Family Court, in its order dated 16.08.2018, allowed the respondent's application for enhancement of maintenance and held that the relief in an application filed under Section 24 of the HMA can only be granted from the date of filing of the application, i.e., 28.02.2009, until the date the main divorce petition was dismissed as withdrawn, i.e., 14.07.2016. Proceedings under Section 26 of the HMA are independent of the main divorce proceedings, and relief under this section can be granted for a period beyond the dismissal of the main divorce petition. The Court therein observed that the appellant had adopted delaying tactics, which prevented the timely resolution of the respondent's

enhancement application. The appellant had been evasive in disclosing his actual income and assets, concealing his true financial status, including his movable and immovable properties. Therefore, he failed to discharge his moral and legal obligations to provide reasonable and just maintenance to his wife and son, commensurate with their social and economic standing.

8. The Family Court held that the respondent and her son are entitled to enhanced maintenance considering the increased expenditures for a growing child and the respondent's requirements aligned with her social status. Accordingly, the Family Court directed the appellant to pay the following amounts:
 - i. ₹1,15,000/- (Rupees one lakh fifteen thousand only) per month as *pendente lite* maintenance to the wife and the son from 28.02.2009 to 14.07.2016, when the divorce petition was withdrawn.
 - ii. ₹35,000/- (Rupees thirty five thousand only) per month to the son from 15.07.2016, until he attains the age of 26 years or becomes

financially independent, whichever is earlier. This amount shall be subject to a 10% increase every two years starting 28.05.2019.

iii. Litigation costs of ₹2,00,000/- (Rupees two lakhs only).

9. Both the parties challenged the above order of the Family Court vide two separate appeals before the High Court. It is the judgment passed in these appeals by the High Court, which is challenged before us by the appellant.
10. The High Court considered whether the Family Court loses its jurisdiction to decide pending applications under Sections 24 and 26 of the HMA, upon withdrawal of the main divorce petition. The appellant argued that the Family Court becomes *functus officio* upon such withdrawal, and therefore, proceedings for interim maintenance and child-related relief under Sections 24 and 26 of the HMA, respectively, could not be adjudicated. This contention was based on the assumption that the statutory jurisdiction under Sections 24 and 26 of the HMA is ancillary to the divorce proceedings and cannot survive withdrawal of the main case. The High

Court rejected this argument, holding that both provisions are independent in nature and continue to operate despite the withdrawal of the divorce petition. The High Court observed that the legislature's intent behind Section 24 of the HMA is to ensure that a financially dependent spouse is not left without resources during the pendency of matrimonial disputes, and this obligation cannot be unilaterally nullified by withdrawal of the petition. It emphasized that allowing withdrawal of the main petition to terminate Section 24 of the HMA proceedings would render the dependent spouse financially vulnerable and create a procedural loophole for evasion of legal obligations. The High Court concluded that interim maintenance proceedings have an independent existence and are not strictly ancillary to the main proceedings. It held that the Family Court's jurisdiction to adjudicate interim maintenance under Section 24 of the HMA extends until the date of withdrawal of the main petition, thereby ensuring that the dependent spouse's financial security is not abruptly disrupted by procedural tactics.

11. With respect to Section 26 of the HMA, which pertains to custody, maintenance, and education of minor children, the High Court provided a detailed analysis of the statutory language and intention. It held that the provision explicitly permits Courts to make orders “from time to time,” granting or modifying reliefs related to children, irrespective of the pendency or withdrawal of the main matrimonial proceedings. The High Court reasoned that matters concerning the welfare of children are not merely incidental to the matrimonial dispute but are of paramount and enduring importance. Recognizing that the interests of the children are paramount, the High Court clarified that the Family Court retains jurisdiction under Section 26 of the HMA even after withdrawal of the main petition, ensuring that children’s needs are addressed in an ongoing and dynamic manner.

12. The High Court also dismissed the appellant's appeal placing reliance on the this Court’s decision in ***Ajay Mohan and Ors. v. H.N, Rai and Ors.***², observing that the judgment was delivered in a different context

² (2008) 2 SCC 507

and was not applicable to matrimonial proceedings under the HMA. It noted that this Court in **Ajay Mohan (Supra)**, did not address the specific statutory framework or the unique considerations governing Sections 24 and 26 of the HMA. Reaffirming its position, the High Court underscored that the provisions under Sections 24 and 26 of the HMA serve distinct and independent purposes—one ensuring financial support for the dependent spouse and the other protecting the welfare of minor children. It concluded that the Family Court’s jurisdiction to adjudicate these matters persists independent of the status of the primary matrimonial dispute, thereby reinforcing the legislative objective of ensuring fairness and equity in matrimonial proceedings.

13. The High Court, while deciding the correctness of interim maintenance provided by the Family Court, heavily relied on the judgment of this Court in **Rajnish v. Neha and Another**³. This Court, in this judgment laid down the principles to ensure equitable determination of financial support for the

³ (2021) 2 SCC 32

wife and dependent child. It reiterated that maintenance should be determined after considering the status and lifestyle of the parties, reasonable needs of the wife and children, the wife's educational qualifications, professional skills, and earning capacity, as well as the appellant's financial standing and obligations. It must also address the rising cost of living and inflation to ensure a standard of living that is proportionate to the appellant's financial capacity and consistent with the standard of living the wife and children were accustomed to prior to separation. This Court highlighted that a husband cannot evade his duty of disclosure by concealing assets, as financial transparency is critical to the fair adjudication of maintenance claims.

14. In this case, the High Court observed that the appellant's income, primarily from employment and investments, demonstrated his ability to provide for the wife and child's maintenance adequately. The evidence revealed that the appellant earned over ₹4,00,000 (Rupees four lakhs only) per month between 2007 and 2016. Although he claimed higher living expenses due to his residence in Mauritius, the

High Court found his arguments to be unsubstantiated, as his financial resources allowed him to meet maintenance obligations without undue hardship. The High Court further noted several instances of the appellant's deliberate attempts to mislead the judicial process. He withheld critical financial documents and selectively disclosed information to conceal the full extent of his wealth. The inquiry into the statutory forms of the appellant revealed that he had investments in mutual funds valued at ₹5.10 crores as early as 2009-2010, significant sums deposited in bank accounts, and other financial transactions that were not initially disclosed.

15. The High Court also identified false representations by the appellant regarding his property and income. He denied ownership of a property located at F-146, Richmond Park, Gurgaon, despite evidence of its ownership and rental income accruing to him. Additionally, the appellant misrepresented his association with Prasham Consultants LLP, wherein he continued to receive financial benefits until his father replaced him in 2016. These findings

demonstrated a pattern of deliberate suppression of material facts and assets by the appellant, aimed at minimizing his maintenance liability. Such conduct warranted judicial intervention to ensure justice and provide adequate financial support to the wife and child, reflecting principles of fairness, transparency, and equity. Consequently, the High Court directed the appellant to pay interim maintenance that adequately addressed the needs of the wife and child, proportionate to his financial capacity and consistent with the obligations of a responsible spouse and parent.

16. Consequently, the High Court dismissed the appellant's appeal challenging the order of interim maintenance granted by the Family Court, and, while allowing the respondent's appeal, granted the following relief:

- i. MAT.APP. (F.C) 120/2019 filed by the wife is allowed to the extent that the interim maintenance granted to the wife under Section 24 of the HMA is enhanced from Rs. 1,15,000/- (Rupees one lakh fifteen thousand only) to Rs. 1,45,000/- (Rupees on

lakh forty five thousand only) per month from the date of filing of enhancement application i.e. 28.02.2009 till the date of withdrawal of divorce petition by the appellant i.e. 14.07.2016.

- ii. All amounts paid by the appellant to the wife and the son till date shall be duly adjusted.
- iii. The appellant shall also be liable to pay interest at the rate of 12% per annum towards the shortfall in the maintenance amount for the concerned period. The interest shall be calculated on the amount of deficit from the time it became due in a particular month and till the time it is paid.
- iv. Based on the aforesaid, the arrears of maintenance to both the wife and the son, along with the interest, shall be paid within a period of eight (8) weeks from today.

17. The appellant is before us challenging the above judgment of the High Court on the grounds that the respondent has played a fraud on the Courts by concealing material/relevant documents and by filing false affidavits in support of her enhancement

application, and that the son could not be granted maintenance till the age of twenty-six years as per the law. The interest @ 12% per annum in punitive in nature even though he had never defaulted in payment of interim maintenance.

18. We heard the parties in camera to discuss the possibility of an amicable solution but during the proceedings both the parties submitted that they are willing to have the marriage annulled by mutual consent as there remains no possibility of a reunion between them.
19. During the interaction before this Court, we found both the parties to be fair and reasonable in their approach, demeanor and conduct. They have shown an honest intention to amicably settle their disputes instead of maligning each other and unnecessarily delaying the proceedings.
20. Learned senior counsels for the respective parties have made their submissions at length. The parties have also filed their affidavits of assets as directed by this Court.

21. Before we proceed further, it is relevant to note that the parties stayed together only for around five years of the marriage, and even though they have a son out of the wedlock, they have been staying separately for almost over two decades now. They have made multiple serious allegations against each other and have been conducting litigations. They have no intention of reconciling, their marriage exists only for namesake, and there has been no cohabitation between the parties since 2004. Though the petition for dissolution of marriage has been withdrawn by the appellant, the interim maintenance proceedings have been going on between the parties since 2004.
22. The admitted long-standing separation, nature of differences, prolonged litigations pending adjudication, and the unwillingness of the parties to reconcile, are evidence enough to show that the marriage between the parties has completely broken down irretrievably.
23. A Constitution Bench of this Court in its judgment in the case of ***Shilpa Sailesh v. Varun Sreenivasan***⁴,

⁴ (2022) 15 SCC 754

laid down that it has the discretionary power to dissolve a marriage which in its opinion and on the evidence has broken down irretrievably. The Court is required to exercise this discretion cautiously while analyzing the facts and evidence of each case. In order to arrive at the decision regarding whether the marriage has irretrievably broken down, the Court needs to factually examine and firmly establish the same, after careful consideration.

24. In ***Shilpa Sailesh (Supra)***, this Court further laid down the factors to be considered for such examination, and the same were reiterated in the case of ***Kiran Jyot Maini v. Anish Pramod Patel***⁵. This Court in both these judgments opined that the factors to be examined include the period of cohabitation between the parties, the period of separation, the attempts made for reconciliation, nature and gravity of allegations made between the parties, and such other similar factors.
25. This Court in plethora of judgments, such as ***Shilpa Sailesh (Supra)*** and ***Kiran Jyot Maini (Supra)***,

⁵ (2024) SCC OnLine SC 1724

Ashok Hurra v. Rupa Bipin Zaveri⁶ and ***Hitesh Bhatnagar v. Deepa Bhatnagar***⁷, has laid down the clear position that a marriage can be dissolved by this Court on the ground of irretrievable breakdown when the relationship is so strained that the marriage has succumbed to the long standing differences between the parties and it has become impossible to save such a relationship. When the Court is convinced that there is no scope for the marriage to survive and no useful purpose, emotional or practical, would be served by continuing the soured relationship, and it finds that the marriage is completely dead, then it can exercise its inherent power under Article 142 of the Constitution of India to dissolve the marriage.

26. In the present case, even though the parties cohabited for about five to six years after marriage, but they have been living separately for more than two decades now. From the material on record, it also appears that even during the period of cohabitation the relationship between the parties was strained. The parties have made multiple serious allegations

⁶ (1997) 4 SCC 226

⁷ (2011) 5 SCC 234

against each other. The appellant has contended that the respondent was short-tempered, hostile and behaved inappropriately with him and his parents, which led him into depression. The respondent has alleged that the appellant's family was indifferent towards her from the beginning, they had created an uncomfortable environment for her, and the appellant showed no concern or care towards her. She further alleged that in the five years of cohabitation, the appellant was hostile towards her, she was treated like a domestic help, was never taken care of, and she was never treated as a wife by him. She finally left her matrimonial house fearing threat to her life, after hearing conversations between the appellant and his mother.

27. It is evident that the relationship between the parties appears to be strained from the beginning and only further soured over the years. Reconciliation proceedings during the pendency of the divorce petition also failed. The parties have been litigating maintenance proceedings for a prolonged period, and there appears to be no cogent reason to only deal with the issue of interim maintenance after twenty years

of strained relationship and separation. These facts are admitted by the parties before us, and they have also mutually agreed for the dissolution of their marriage. Therefore, we believe that the marriage between the parties should be dissolved by this Court while exercising the discretionary power under Article 142 of the Constitution of India.

28. Thus, considering the facts of this case, all the material on record, submissions of the parties and analyzing the same in light of the factors stated above, the marriage between the appellant and the respondent is ordered to be dissolved.
29. The main issue between the parties all these years, since separation, is the quantum of maintenance to be paid by the appellant to the respondent. The issue of maintenance *pendente lite* is now infructuous with the dissolution of marriage, but the financial interest of the wife still needs to be protected through grant of permanent alimony. The learned senior counsels for the parties have made submissions at length regarding the financial condition of both the parties. In order to establish the correct financial position of

both the parties, they have filed their respective affidavits of income and assets as ordered by this Court.

30. Before going into the details of the financial position of the parties, it is imperative that we highlight the position of law with regard to determination of permanent alimony. This Court, in a catena of judgments, has laid down the factors that needs to be considered in order to arrive at a just, fair and reasonable amount of permanent alimony.
31. There cannot be strict guidelines or a fixed formula for fixing the amount of permanent maintenance. The quantum of maintenance is subjective to each case and is dependent on various circumstances and factors. The Court needs to look into factors such as income of both the parties; conduct during the subsistence of marriage; their individual social and financial status; personal expenses of each of the parties; their individual capacities and duties to maintain their dependents; the quality of life enjoyed by the wife during the subsistence of the marriage; and such other similar factors. This position was laid

down by this Court in ***Vinny Paramvir Parmar v. Paramvir Parmar***⁸, and ***Vishwanath Agrawal v. Sarla Vishwanath Agrawal***⁹.

32. This Court in the case of ***Rajnish v. Neha (Supra)***, provided a comprehensive criterion and a list of factors to be looked into while deciding the question of permanent alimony. This judgment lays down an elaborate and comprehensive framework necessary for deciding the amount of maintenance in all matrimonial proceedings, with specific emphasis on permanent alimony. The same has been reiterated by this Court in ***Kiran Jyot Maini v. Anish Pramod Patel (Supra)***. The primary objective of granting permanent alimony is to ensure that the dependent spouse is not left without any support and means after the dissolution of the marriage. It aims at protecting the interests of the dependent spouse and does not provide for penalizing the other spouse in the process. The Court in these two judgments laid down the following factors to be looked into:

- i. Status of the parties, social and financial.

⁸ (2011) 13 SCC 112

⁹ (2012) 7 SCC 288

- ii. Reasonable needs of the wife and the dependent children.
- iii. Parties' individual qualifications and employment statuses.
- iv. Independent income or assets owned by the applicant.
- v. Standard of life enjoyed by the wife in the matrimonial home.
- vi. Any employment sacrifices made for the family responsibilities.
- vii. Reasonable litigation costs for a non-working wife.
- viii. Financial capacity of the husband, his income, maintenance obligations, and liabilities.

These are only guidelines and not a straitjacket rubric. These among such other similar factors become relevant.

33. This Court in ***Kiran Jyot Maini (Supra)***, while discussing the husband's obligation to maintain the wife and the importance of his financial capacity in deciding the quantum, observed that:

“26. Furthermore, the financial capacity of the husband is a critical factor in determining permanent alimony. The Court shall examine the husband's actual income, reasonable expenses for his own maintenance, and any dependents he is legally obligated to support. His liabilities and financial commitments are also to be considered to ensure a balanced and fair maintenance award. The court must consider the husband's standard of living and the impact of inflation and high living costs. Even if the husband claims to have no source of income, his ability to earn, given his education and qualifications, is to be taken into account. The courts shall ensure that the relief granted is fair, reasonable, and consistent with the standard of living to which the aggrieved party was accustomed. The court's approach should be to balance all relevant factors to avoid maintenance amounts that are either excessively high or unduly low, ensuring that the dependent spouse can live with reasonable comfort post-separation.”

34. In the present case, it is a matter of record and an admitted fact that the respondent is unemployed while the appellant is a well accomplished banker who has worked in multiple senior roles at various

banks over the years. We have perused the records of finances produced before us. Even though the records of the DEMAT accounts and the employment letters produced by the appellant are almost ten years ago or earlier, his financial position can be suitably ascertained from them.

35. It is admitted on record that the respondent is a home maker and has not been working in all these years, the son lives with her, who has now completed his B. Tech. course, and they reside in a house owned by the respondent's mother. The appellant has paid for the son's education as well as paid the interim maintenance as ordered by the Family Court. The son is now major and has also completed his graduation.
36. The appellant is currently working as the Chief Executive Officer of Vision Bank in Dubai and his estimated salary is about AED 50,000 per month which means that he is earning around Rs. 10 to 12 Lakhs per month. Though he has filed details of his DEMAT accounts from 2010, it is revealed that he had investments of around Rs.5 crores at that time. Further, he has three properties worth approximately

Rs.2 crores, Rs.5 crores and Rs.10 crores, respectively.

37. During the period of cohabitation, the parties were initially residing in Mumbai when the appellant was working as a Foreign Exchange Executive with Global Trust Bank and subsequently in Chennai when the appellant changed his job. The appellant has worked at multiple positions in prestigious Banks and stayed in metropolitan cities with the respondent during the subsistence of the marriage.
38. In compliance of this Court's order dated 23.09.2024, the appellant has also paid Rs. 72 Lakhs as arrears of maintenance in addition to the maintenance already paid by him.
39. It is not disputed that the appellant has the legal obligation as well as the financial capacity to maintain the respondent after dissolution of the marriage. As held by us in ***Kiran Jyot Maine (Supra)***, it is also necessary to ensure that the amount of permanent alimony should not penalize the husband but should be made with the aim of ensuring a decent standard of living for the wife.

40. Considering the material on record, the totality of the circumstances and the facts of this case, a one-time settlement amount with provision for the respondent as well as the son, would be a fair arrangement. For the respondent, considering the standard of living enjoyed by her during subsistence of the marriage, the prolonged period of separation, and the appellant's financial capacity, a one-time settlement amount of Rs. 5 crores (Rupees five crores only), appears to be just, fair and reasonable amount for the respondent to be paid by the appellant towards settlement of all pending claims also.
41. It is also equitable and only obligatory for a father to provide for his children, especially when they have the means and the capacity to do the same. Even though the son is now major and has just finished his engineering degree, the High Court has rightly observed that it is only after completion of a college/ university degree and in some cases, completing a post-graduation/ professional degree, would the child be able to secure employment. In fact, it can safely be concluded that, in today's competitive

world, gainful employment may be feasible only after the child has pursued education beyond 18 years of age. Mere completion of his engineering degree does not guarantee a gainful employment, in these competitive times. The appellant herein has sufficient means to support his child, and thus provision should also be made for his maintenance and financial security as well. An amount of Rs. 1 crore (Rupees one crore only) towards the maintenance and care of the son appears to be fair, which he can utilize for his higher education and as security till he becomes financially independent.

42. Therefore, we fix the abovementioned amount as one-time settlement amount to be paid by the appellant to the respondent and his son within a period of four months from the date of this judgment.
43. Consequently, the appeals are disposed of with the above observations and directions to the parties. Accordingly, decree of divorce be granted in exercise of this Court's power under Article 142 of the Constitution of India. Further, the appellant shall pay the amount provided above towards permanent

alimony to the respondent and his son within the time stipulated above. The Registry to draw a decree accordingly.

.....**J.**
(VIKRAM NATH)

.....**J.**
(PRASANNA B. VARALE)

NEW DELHI
DECEMBER 10, 2024