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

Pronounced on: 16.04.2025

+ **CRL.M.C. 7371/2024 & CRL.M.A. 28112/2024**

PRADEEP SINGH

.....Petitioner

Through: Mr. Siddhant Gautam, Adv.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Hitesh Wali, APP for State.

Mr. Anindya Malhotra, Mr. Shaurya
Lamba, Mr. Sanidhya Chowdhry and
Ms. Harishmita Singh, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The present petition has been filed by the petitioner seeking setting aside of the impugned order dated 03.06.2024 passed by learned Principal Judge, Family Court, Patiala House Courts in MT Case No. 206/2021 titled as *Pushpa & Anr Vs Pradeep Panwar* whereby the petitioner was directed to pay a sum of Rs. 13,000/- p.m. as interim maintenance.

2. The brief facts which are relevant for the disposal of the present petition are that the petitioner/husband and respondent no. 2/wife got married on 14.04.2019. A child, namely Master Tarush, was born out of said wedlock on 09.03.2020. There were a few issues in the marriage that led to the separation on 28.01.2021.



3. Thereafter, on 11.12.2021 respondent no.2/wife filed a Maintenance Petition being MT Case No. 206/2021 under section 125 CrPC praying for maintenance. The learned Trial court *vide* order dated 31.10.2022 directed the Petitioner to deposit Rs.5000/- per month as *ad-interim* maintenance for maintenance of minor child. Later, *vide* impugned order dated 03.06.2024, the learned Trial court granted Rs. 13,000/- per month as interim maintenance to the wife and minor child of the petitioner. The present petition is filed against the said impugned order.

4. This court *vide* order dated 18.09.2024 granted stay on impugned order subject to deposit of Rs. 1,20,000/- in this Court. The said amount was deposited on 04.10.2024 and since then stay on impugned order is continuing.

5. Mr. Siddhant Gautam, the learned counsel for the petitioner/husband submits that the impugned order has been passed without considering the relevant facts of the case as the learned Trial Court has failed to consider relevant factors like the duration of marriage of the parties and the documentary evidence placed on record. The learned Trial court has ignored the fact that the respondent no. 2/wife has subjected the petitioner to cruelties and has herself deserted the company of the petitioner along with their minor child without any reasonable cause. The learned Trial Court has overlooked the fact that respondent no. 2 is a postgraduate and had worked with companies like Jet Airways and Career Endeavour (New Delhi), earning a salary of Rs. 23,500/- per month until March 2020.

6. Mr. Gautam submitted that respondent no. 2 is still employed at a company called 'Satadru Technology private limited' and is holding another



bank account which is not mentioned in income affidavit filed before learned Trial Court.

7. He draws attention of the Court to the entries in the bank statement of respondent no.2, to submit that substantial amount is lying deposited in respondent no.2's bank account. The learned Trial Court has not considered such deposits while passing the impugned order. Further, the learned Trial Court has ignored the fact that the petitioner is the only son and has to maintain his parents apart from maintaining self and the minor child.

8. Mr. Gautam submits that the reason respondent no.2 chose to remain idle despite having the experience, qualifications, and capacity to work, is to impose a liability on the petitioner. He places reliance on the decision of this court in *Gurpreet Dhariwal vs. Amit Jain, 2022 SCC OnLine Del 1066* and *Damanpreet Kaur vs. Indermeet Juneja, Criminal Revision Petition 344/2011*.

9. On the other hand, Mr. Anindya Malhotra the learned counsel for the respondent no. 2/wife has supported the impugned order and submits that there is no illegality in the same.

10. He invites attention of this Court to the affidavit dated 13.11.2024 filed by the petitioner before this Court pursuant to direction given to the petitioner *vide* order dated 18.09.2024, to show the amount paid by petitioner as interim maintenance is amounting to Rs.2,31,200/-. He submits that petitioner has tried to mislead this Court as perusal of the said affidavit would reveal that the entries mentioned in the said affidavit at serial nos.1-5 are prior to the date of marriage i.e. 14.04.2019. Hence, the same cannot be taken into account as



interim maintenance paid. He further submits that the entries mentioned at serial nos.6-15 also cannot be counted as interim maintenance paid to the respondent no. 2 since the maintenance petition bearing MT Case No.206/2021 was filed on 11.12.2021 and the said entries pertain to 21.04.2019 to 31.01.2021, which are much prior to the date of filing of the said maintenance petition.

11. He submits that the petitioner has also admitted to the receipt of Rs. 99,351/- from the account of the respondent no.2 which was obtained by him by pressuring the respondent no.2 while she was staying in matrimonial home.

12. Mr. Malhotra submits that the respondent no.2/wife left the matrimonial house on 28.01.2021 due to constant physical, emotional and financial cruelty subjected by the petitioner and his family members upon her and therefore, she was compelled to leave her matrimonial home and reside at her parental home alongwith her minor child.

13. He further submits that respondent no.2 stopped working since 08.02.2020 on account of her pregnancy. She did not take up any job after birth of the child on 09.03.2020 and has never worked in 'Satadru Technologies Private Ltd' The learned Trial Court has also acknowledged this fact in the impugned order and observed that there is only one entry of Rs. 3922/- from Satadru Technologies Private Ltd. which was made on 19.04.2022 and no other transactions were found before or after that date, which suggests that respondent no. 2 was not employed anywhere.

14. He submits that the entries of Rs. 13,000/- on 29.04.2022 and Rs. 32,000/- on 31.05.2022 in Respondent No. 2's bank account are self-transfers.



These funds were transferred by her family members for the upkeep of respondent no. 2 and the minor child.

15. He submits that the petitioner is drawing additional income from coaching center. A perusal of his bank statement would reveal various entries of small denominations from various people as tuition fee. Further the bank statement of the Petitioner of HDFC Bank account bearing No. 5010022313051 for the period 01.04.2021 to 31.03.2022 is reflecting deposit of Rs.16,45,541/-, which is cleverly transferred by petitioner in a different account. He submits that the petitioner has also cleverly omitted to mention in his income affidavit filed before the learned Trial Court in the Maintenance Petition about two FDs of Rs.4,00,000/- and Rs.1,00,000/- on which he has been enjoying interest.

16. He further submits that the petitioner with *mala fide* intention to reduce amount of interim maintenance took two loans on 20.03.2022 amounting Rs.37,670/- and Rs.46,960/- to purchase air conditioner and television respectively after removing respondent no. 2 from matrimonial home.

17. He places reliance on the judgment of the Hon'ble Supreme Court in ***Rajnish vs. Neha & Anr., (2021) 2 SCC 324*** to submit that in the said decision it was held that even if the wife is educated and capable of supporting herself, it would not absolve the husband from paying interim maintenance.

18. I have heard the learned counsel for the petitioner, as well as, the learned counsel for the respondents and have perused the record.

19. At the stage of grant of interim maintenance, the Family Court is only expected to make a broad estimation of the earnings of the husband, as well as, wife in order to fairly assess the grant of interim maintenance. The law is well



settled that Section 125 of CrPC was conceived to ameliorate the agony, anguish and financial sufferings of a woman who is required to leave the matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children¹.

20. Before the Family Court, both the parties had filed their respective income affidavits and the copies of the same are available on the record of the present petition. A perusal of the income affidavit of the petitioner husband shows that he has admitted that he is working as Mathematics Teacher in Aravali Institute School and is drawing a monthly salary of Rs.40,000/-. The respondent no.2/wife in her income affidavit has claimed that she is unemployed and dependant on her parents. She has further claimed that her general monthly expenses are Rs.50,000/- per month and she also has a son from the wedlock, who is presently aged about 5 years. She has claimed expenses of the minor child including food, clothing, medicine, etc. as Rs.15,000/- per month.

21. The petitioner has though claimed that the respondent no.2/wife is employed with 'Satadru Technology Pvt. Ltd.' and there is also one entry of Rs.3,922/- in her account from the said company, however, no evidence has been placed on record to establish that the respondent no.2/wife is working with the said company or with any other employer. On the basis of single credit entry of Rs.3,922/- it cannot be inferred that the respondent no.2/wife is employed with 'Satadru Technology Pvt. Ltd'.

¹ *Bhuvan Mohan Singh v. Meena*, (2015) 6 SCC 353



22. The contention of the petitioner is that he has parents to support and is also paying monthly fees of Rs.5,000/- for his B.Ed. course, but again there is no evidence furnished by the petitioner to prove the payment of such fee.

23. Insofar as the dependant parents of the petitioner are concerned, it appears that while awarding maintenance, the said aspect has been kept in mind by the learned Family Court though it has not specifically been discussed.

24. The Hon'ble Supreme Court in **Rajnesb** (*supra*) has comprehensively listed various factors which have to be taken into consideration for determining maintenance. It was observed that a careful and just balance must be drawn between all relevant factors. It was held that an able-bodied husband must be presumed to be capable to earn sufficient money to maintain his wife and children, and cannot contend that he is not in a position to earn sufficiently to maintain his family. It was further observed that the courts have held that if the wife is earning, it cannot operate as bar from being awarded maintenance by the husband.

25. Coming back to the facts of the present case, it is an admitted case of the petitioner that his monthly income is Rs.40,000/- whereas it has not been established on record that the respondent no.2/wife is working and having any income of her own. Besides that, the justification put forth by the respondent no.2/wife that on 09.03.2020, she was blessed with a child and prior thereto, on account of pregnancy, she had given up her employment and did not take up fresh employment to look after the child, appears to be cogent and reasonable. Therefore, the decisions relied upon by the petitioner in para 8 above would have no application to the facts of the present case.



26. Considering the income of the petitioner as Rs.40,000/- per month and total members of the family being five, including the petitioner's parents and the respondent no.2/wife, as well as, minor child, this court finds that the monthly maintenance awarded to the respondent no.2/wife for herself and for the child as Rs.13,000/- per month, is a fair and justified amount as interim maintenance. Even if the admitted monthly income of Rs.40,000/- is split into five shares, still the respondent no.2/wife and her minor child would be entitled to two shares of Rs.8,000/- each which will total up to Rs.16,000/-

27. In view of the above discussion, this court finds no infirmity in the order passed by the learned Family Court. The petition is, therefore, dismissed being devoid of merit. Resultantly, the pending application also stands disposed of.

28. Consequently, the amount of Rs.1,20,000/- deposited by petitioner in terms of this court's order dated 18.09.2024, which was directed to be invested in FDR, be released forthwith to respondent no.2/wife along with interest accrued thereon.

29. The learned Family Court is directed to expedite and conclude the trial, preferably within a period of six months.

VIKAS MAHAJAN, J

APRIL 16, 2025/N.S. ASWAL