



2025:DHC:10804



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

% *Date of Decision: December 02, 2025*

+ **CRL.REV.P. 568/2023 & CRL.M.A. 13650/2023**

RAJ KUMAR

.....Petitioner

Through: Mr. B.K. Mishra and Mr.
Tushar Mishra, Advs.

versus

STATE GOVERNMENT OF NCT DELHI
& ANR.

.....Respondents

Through: Mr. Raj Kumar, APP for
the State
Mr. I.N. Thakur, Adv. for
R-2 with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present petition has been filed under section 19(4) of the Family Courts Act 1984, read with Section 397 of the Code of Criminal Procedure, 1973, ('Cr.P.C.') seeking setting aside of the order dated 29.03.2023 ('**impugned order**'), passed by the learned Family Court, in CC No. 276/ 2017, titled "*Smt. Pragya Suman v. Sh. Raj Kumar*".

2. *Vide* the impugned order, the learned Family Court directed the Petitioner/ Husband to pay maintenance in the sum of Rs. 30,000/- per month to the Respondent No. 2/Wife.

3. The learned Counsel for the Petitioner submits that the



learned Family Court has incorrectly assessed the income of the Petitioner as Rs. 95,000/- per month, without considering the salary slips placed on record which reflected his income as only Rs. 47,000/- per month and without considering that he also has to pay EMIs of loans and LIC renewal fees, house rent etc. etc.

4. He further submits that the Respondent No. 2 is capable of earning and is more qualified than the Petitioner herein.

5. He further submits that the Respondent No. 2 is guilty of adultery and hence, was not entitled to maintenance under Section 125 Cr. PC.

6. *Per Contra*, the learned Counsel for the Respondent submits that there is no infirmity in the impugned order and the same warrants no interference.

7. It is submitted that the Petitioner has concealed his true income only to avoid paying the amount of maintenance as awarded by the learned Family Court.

8. Submissions heard and the material placed on record perused.

9. Before delving into the facts of the present case, it is important to note that it is a settled law that the scope of interference by High Courts while exercising revisional jurisdiction is limited and ought to be exercised sparingly, in the interest of justice [**Ref. *Amit Kapoor v. Ramesh Chander* : (2012) 9 SCC 460**].

10. At the outset, it is noted that both the contentions raised by the Petitioner herein have been dealt with in detail by the learned Family Court.



11. It emerges from the record that, the Petitioner has not disputed that the Respondent No. 2 is his legally wedded wife, however, much emphasis had been laid by the Petitioner that he does not have an obligation to pay maintenance to his wife as she was in an adulterous relationship.

12. As per Section 125(4) of the Cr.PC. maintenance can be denied to a wife, if she is living in adultery or residing separately without any reasonable cause. However, it is no more *res integra* that onus to prove this adultery always lies upon the husband who alleges such ground.

13. In the present case, the Petitioner had merely relied upon a transcript of a recorded conversation between the Respondent No. 2 and her mother (*Ex. PW1/D1*). However, as rightly observed by the learned Family Court, the original conversation or the mobile phone containing the original recording has not been placed on record, which creates a doubt if the transcript placed before the court is of the original conversation. Even otherwise, a conversation between two females, i.e. the mother of the Respondent No. 2 and the Respondent No. 2 herself, cannot be sufficient to prove adultery or an illicit affair with any other person, who is not even a part of the conversation.

14. It has been rightly noted by the learned Family Court that the Petitioner has neither led any evidence in support of his assertions nor has placed any document on record such as photographs or chats or call records or any such material to prove that his wife was living in adultery or having any illicit affair with any person other than the petitioner.



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15. It has been further pressed upon by the Petitioner that the income of the parties has been incorrectly assessed by the learned Family Court.

16. It has not been disputed that the Petitioner is working as Sr. Bank Manager, UCO Bank. The learned Family had duly considered all the Salary Slips adduced by the Petitioner and on the basis of his latest Salary Slip of December 2022, it has been concluded that he is drawing a gross salary of Rs. 1,24,798/- per month and after valid deductions of Rs. 17,432/- towards Tax, Rs. 626/- Group Insurance and Rs. 9,974/- towards NPS and some other minor deductions, the monthly income of the Petitioner is assessed as Rs. 95,000/-. The assessment undertaken by the learned Family Court is a result of analysis of the most recent financial record.

17. It is significant to note that the Petitioner has sought to rely upon Salary Slips of the period 2017–2021 to substantiate his assertion that his monthly income is merely ₹47,000/-. However, reliance on outdated financial documents is misplaced when more recent and authoritative material is available. The Petitioner has conspicuously failed to furnish his latest Salary Slips before this Court and has not produced any document to demonstrate that his income has diminished subsequent to December 2022 or that the assessment undertaken by the Family Court was erroneous. In the absence of such material, a mere bald assertion of reduced income does not discharge the evidentiary burden necessary to dislodge the findings of the Family Court.

18. Further, the Petitioner has not denied that the Respondent



No. 2 is his only dependant. The Respondent No. 2 has stated in her Affidavit of Income that she is unemployed and has no source of income. The record reflects that the Petitioner has not produced document to show that the Respondent No. 2 was gainfully employed and is able to maintain herself. Though it is not disputed that Respondent No. 2 is well-qualified, her capacity to earn cannot be equated with actual earning, and the mere existence of qualifications does not *ipso facto* establish that the wife is earning and is able to maintain herself.

19. It is trite law that a husband cannot shirk his sacrosanct duty to financially support his wife. The Hon'ble Apex Court, in the case of *Shamima Farooqui v. Shahid Khan : (2015) 5 SCC 705*, observed as under:

*“14. It can never be forgotten that the inherent and fundamental principle behind Section 125 CrPC is for amelioration of the financial state of affairs as well as mental agony and anguish that a woman suffers when she is compelled to leave her matrimonial home. The statute commands that there have to be some acceptable arrangements so that she can sustain herself. **The principle of sustenance gets more heightened when the children are with her.** Be it clarified that sustenance does not mean and can never allow to mean a mere survival. A woman, who is constrained to leave the marital home, should not be allowed to feel that she has fallen from grace and move hither and thither arranging for sustenance. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of her husband. And that is where the status and strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one. As long as the wife is held entitled to grant of maintenance within the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity as she would have lived in her matrimonial home. She cannot be compelled to become a destitute or a beggar. There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite*



*having sufficient means neglects or refuses to maintain the wife. **Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law.** If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right.”*

(emphasis supplied)

20. Similarly, the Hon'ble Apex Court in the in the case of ***Anju Garg and Anr. v. Deepak Kumar Garg : 2022 SCC Online SC 1314***, observed as under:

*“10....The Family Court had disregarded the basic canon of law that it is **the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute....***

x-x-x

*13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no source of income as his party business has now been closed, the Court is neither impressed by nor is ready to accept such submissions. **The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child....**”*

(emphasis supplied)

21. It has also been contended that because maintenance has been directed to be paid from the date of filing of the petition, his gross salary in the year 2017, approximately ₹47,000–₹56,000 per month, should have been the basis for determining maintenance, and therefore the award of ₹30,000 per month is disproportionate.

22. The record clearly reflects that the Petitioner's income has steadily and substantially increased over the years. While his



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gross salary in 2017 was around ₹56,000, his latest salary slip of December 2022 indicates a gross monthly income of approximately ₹1,20,000/-. The learned Family Court has not mechanically applied the income of one particular year; rather, it has taken a balanced and reasonable average of the Petitioner's increasing earnings over the relevant period. Maintenance is meant to secure the dependent spouse's sustenance in a manner commensurate with the earning capacity of the husband, and a spouse cannot claim advantage of outdated salary figures when his present income is demonstrably higher.

23. In view of the above, considering the totality of circumstances, I am of the considered opinion that the maintenance awarded to the Respondent No. 2, in the sum of Rs. 30,000/- per month has been passed after due appraisal of the evidence on record. There is no infirmity or perversity is discernible in the impugned order and the same warrants no interference.

24. There is no merit in the present petition, which is hereby dismissed. The pending application(s), if any, also stand disposed of.

25. The Petitioner is directed to pay arrears of maintenance within a period of six months from date, in terms of the impugned order.

AMIT MAHAJAN, J

DECEMBER 2, 2025

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