



2025:DHC:5068-DB



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

**Reserved on: 30.04.2025**  
**Pronounced on: 01.07.2025**

+ MAT.APP.(F.C.) 163/2025, CM APPLs.25853/2025,  
25856/2025

HIMANSHU VERMA .....Appellant

Through: Ms. Pragya Parijat Singh, Mr.  
Lakshay Saini, Ms. Amrita  
Verma, Ms. Shreya Singh and  
Mr. Anshul Patel, Advs.

versus

CHANDNI VERMA .....Respondent

Through: *Nemo*

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MS. JUSTICE RENU BHATNAGAR**

## **J U D G M E N T**

### **RENU BHATNAGAR, J.**

1. The present appeal is filed under Section 19 of the Family Courts Act, 1984, challenging the Order dated 10.02.2025 (hereinafter referred to as, 'Impugned Order') passed by the learned Principal Judge, Family Court-01, Shahdara District, Karkardooma Courts, Delhi (hereinafter referred to as, 'Family Court'), whereby the application under Section 24 of Hindu Marriage Act, 1955 (hereinafter



2025:DHC:5068-DB



referred to as 'HMA') filed by the respondent/wife for grant of interim maintenance in HMA No. 1575/2023, titled *Himanshu Verma v. Chandni Verma*, was allowed, granting maintenance at the rate of Rs.25,000/- per month from the date of filing of the application till the pendency of the case, to the respondent/wife.

2. The brief background of the case is that the appellant/husband and the respondent/wife were married on 29.01.2022 at Sahibabad, District Ghaziabad, in accordance with the Hindu rites and ceremonies. Out of the said wedlock, a male child was born on 23.06.2023, who is presently in the custody of the respondent/wife. It is an admitted position that, due to matrimonial discord, the parties are residing separately. The appellant/husband instituted a petition seeking dissolution of marriage under Sections 13(1)(ia) and 13(1)(ib) of the HMA on 08.08.2023. In the said proceedings, the respondent/wife filed an application under Section 24 of the HMA, which came to be disposed of by the impugned order, now under challenge before this Court.

3. It is contended by learned counsel for the appellant that the learned Family Court has failed to consider the educational qualifications and potential employability of the respondent/wife and that she is capable of maintaining herself and is not entitled to maintenance. It is further submitted that the learned Family Court did not take into account the appellant's financial liabilities, including outstanding loans and EMIs, which are deducted from his monthly income. Additionally, the appellant has financial responsibilities



towards his elderly parents, his father being a paralytic patient requiring regular medical treatment and daily care expenses.

4. The learned counsel for the appellant, placing reliance on the judgment of this Court in *Chetram Mali v. Karishma Saini*, 2023 SCC OnLine Del 7318, argued that the learned Family Court was required to take into consideration the liabilities of the husband alongwith his duties towards the other family members, while granting maintenance to the wife.

5. We have considered the submissions of the learned counsel for the appellant and have perused the record of the appeal.

6. Before the learned Family Court, the respondent/wife pleaded that she is not earning and does not have sufficient income to maintain herself. The said facts are not refuted by the appellant before the learned Family Court or even before this Court. Admittedly, the respondent/wife is not earning anything. It is well-settled that the capability to earn and actual earnings are distinct considerations, and in the absence of any cogent evidence establishing the respondent/wife's present employment or income, no adverse inference can be drawn against her merely on the grounds of her alleged capability of gaining employment. Reference can be drawn to the observations of the Supreme Court in *Shailja v. Khobbanna*, (2018) 12 SCC 199, wherein it was held that the factum of the wife being capable of earning a living and whether she is actually earning are two different aspects. Merely because the wife is capable of earning is not a sufficient reason to reduce the maintenance awarded



by the learned Family Court.

7. Similarly, this Court in ***Binita Dass v. Uttam Kumar*** 2019 SCC OnLine Del 9666, held that the qualification of the wife and her capacity to earn cannot be the sole ground to deny her interim maintenance if she is without any source of income. In the said case, the petitioner/wife, *inter alia*, had approached this Court challenging the order of the Trial Court as well as the Appellate Court, whereby her application for grant of *interim* maintenance had been dismissed. With regard to the observations made by the Trial Court and the Appellate Court, this Court observed as under:

*“4. Clearly both the Trial Court as well as the Appellate Court have erred in not appreciating the judgments of this Court wherein it has specifically been held that capacity to earn and actually earning are two different things. Reference may be had to the decisions of this court in Kanupriya Sharma vs. State & Anr, Crl.Rev.P.849/2018 decided on 31<sup>st</sup> May, 2019 and Babita Bisht vs. Dharmender Singh Bisht, Crl.Rev.P.456/2015 decided on 29<sup>th</sup> May, 2019.*

*5. This court in Kanupriya Sharma (Supra) relied upon judgment of the Supreme Court of India in Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353 and held as under:*

*“22. The Supreme Court of India in Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353 has held that Section 125 of*



*the Code of Criminal Procedure was conceived to ameliorate the agony, anguish, financial suffering of a woman who left her matrimonial home for the reasons provided in the provision so that some suitable arrangements can be made by the court and she can sustain herself and also her children if they are with her. The concept of sustenance does not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else. She is entitled in law to lead a life in the similar manner as she would have lived in the house of her husband. That is where the status and strata come into play, and that is where the obligations of the husband, in case of a wife, become a prominent one. In a proceeding of this nature, the husband cannot take subterfuges to deprive her of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the field, it is the obligation of the husband to see that the wife does not become a destitute, a beggar. A situation is not to be maladroitly created where under she is compelled to resign to her fate and think of life "dust unto dust". It is totally impermissible. In fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able-bodied. There is no escape route unless there is*



*an order from the court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds.*

*23. The rationale for grant of maintenance under section 125 Cr.P.C. as expounded by the Supreme Court in Bhuwan Mohan Singh (supra) applies on all fours to the grant of maintenance under the DV Act."*

*6. It is not the case of the respondent, that petitioner is actually employed or earning. The only ground taken is that she is qualified and capable of earning. The Supreme Court in Shailja & Anr. Vs. Khobbanna (2018) 12 SCC 199 has held that whether the wife is capable of earning or whether she is actually earning are two different requirements.*

*7. Qualification of the wife and the capacity to earn cannot be a ground to deny interim maintenance to a wife who is dependant and does not have any source of income."*

8. The appellant is stated to have been securing tenders for computer repair from the Delhi Police. Although, as per the income affidavit filed by the appellant/husband before the learned Family Court, he claimed to be earning Rs.60,000/- per month with the expenses of Rs. 55,000/- per month, the Court has duly examined various credit entries on a regular basis in the appellant's bank account. Relying on those entries, the learned Family Court has rightly assessed the appellant's income. The Income Tax Returns (ITRs) of the appellant for the Assessment Years 2022–2023, 2023–2024, and 2024–



2025 have also been considered. Although the ITRs indicate a declining trend in reported income over the years, the credit entries, particularly those for the month of October, suggest otherwise.

9. The learned Family Court recorded in its order that around Rs.1,24,500/- was credited to the account of the appellant in December, 2023, Rs.1,37,650/- in November, 2023, Rs. 60,000/- in October, 2023, Rs. 90,000/- in September, 2023, and so on and so forth.

10. It is settled law that when a party attempts to conceal his income and fails to produce the relevant documents to ascertain the actual earnings, the income can be assessed based on guesswork of the status of the parties, their lifestyle, and social background. Reference can be made to the judgment of the Supreme Court in ***Jasbir Kaur Sehgal vs District Judge, Dehradun & Others***, (1997) 7 SCC 7 wherein it is held that:

*“7. ....Considering the diverse claims made by the parties, one inflating the income and the other suppressing, an element of conjecture and guesswork does enter for arriving at the income of the husband. It cannot be done by any mathematical precision.”*

11. In the aforesaid case, it is also held by the Supreme Court that:

*“ 8. ....The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and*





*the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent income sufficient for her or his support. Maintenance is always dependent upon factual situation; the court should, therefore, mould the claim for maintenance determining the quantum based on various factors brought before the court.”*

13. From the above position of law, it is evident that the Courts have consistently held that a person cannot wriggle out of his/her statutory liability to maintain his/her spouse.

14. Admittedly, the *interim* maintenance has to be decided on the basis of pleadings and the income and assets affidavit filed on behalf of the parties. A balance has to be drawn between relevant factors as there is no straitjacket mechanism for fixing the quantum of maintenance and, *inter alia*, includes the status of the parties, and reasonable needs of the wife. It is the settled law that the wife is also entitled to enjoy the same amenities of life as she would have been entitled to in her matrimonial home.

15. Considering the social status of the parties, the ITRs of the appellant, his bank account statement, his income affidavits, and the fact that he has taken loans for a car etc, the learned Family Court has rightly assessed the income of the appellant as Rs.1,00,000/-. After giving due consideration to the EMIs being paid by the appellant and distributing his income into six shares, the learned Family Court rightly



2025:DHC:5068-DB



granted ad interim maintenance to the respondent/wife at the rate of Rs.25,000/- per month.

16. We, therefore, do not find any infirmity, illegality, or perversity in the impugned order. Accordingly, the present appeal is dismissed.

**RENU BHATNAGAR, J.**

**NAVIN CHAWLA, J.**

**JULY 01, 2025**

*Pallavi/MY/DG*

*Click here to check corrigendum, if any*