



2025:DHC:5157



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

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*Reserved on: 23rd April, 2025
Pronounced on: 28th June, 2025*

+ **CRL.M.C. 3355/2021, CRL.M.A. 20382/2021 & 34840/2023**

**MR DARPAN CHAUDHARY
S/O Shri Arun Chaudhary
R/O H.No. 33, Second Floor,
Vishal Enclave, Rajouri Garden,
Delhi-110027**

.....Petitioner

Through: Mr. Rohit Khurana, Mr. Kunal Mittal,
Mr. Kumar Harsh and Mr. Aakash
Mehta, Advocates.

versus

**1. STATE OF NCT OF DELHI
2. MRS. NISHTHA SACHDEVA
W/O Sh. Darpan Chaudhary
R/O F-1/13, Second Floor,
Model Town, Delhi-110009**

.....Respondents

Through: Mr. Shoaib Haider, Ld. APP for State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 Cr.P.C. has been filed by the petitioner to set aside Order dated 27.03.2021, *vide* which learned MM has granted Interim Maintenance of Rs.1,50,000/- to the Respondents (wife and son of Petitioner) under Section 12 of Protection of Women from Domestic Violence Act (DV Act), which has been upheld by Principle District and Sessions Judge, Delhi in the Appeal, *vide* Order dated 09.07.2021.



2. The Complainant/Respondent No.2 Nishtha Sachdeva had filed a Complaint under Section 12 of DV Act, claiming interim maintenance of Rs.1,50,000/- for herself and their minor child and also to issue directions to the Petitioner to pay school fee of the child.

3. **Brief facts are that** Parties had got married on 12.02.2015 and one son was born out of the wedlock on 12.09.2016. Due to matrimonial differences, they separated on 21.12.2008. Thereafter, the Complaint bearing CC No. 3371/2019 under 12 of DV Act was filed by the Complainant / Respondent No.2 for maintenance and other Reliefs.

4. The Complainant asserted that Petitioner is Managing Director of Hi Class Impex. In his bio-data shown at the time of marriage, the family income was mentioned as Rs.20-25 lacs per month. It was further asserted that Petitioner was having stake in other businesses namely *Audra Food Works* and *BBS Food Works Pvt. Ltd.* as is evident from the print outs of his Facebook accounts. Complainant filed photographs and other documents along with Affidavit of income.

5. She further asserted that from the photographs and other documents it was apparent that Petitioner was enjoying a luxurious lifestyle and high standard of living, to which she being the wife, was also entitled. The Statement of Account of only two banks has been filed, one of which was in Kotak Mahindra Bank. It was claimed that petitioner nowhere mentioned in his Affidavit of Income that he had no other Bank Accounts. The reference to the entries in Kotak Mahindra Bank show that there were credits from Petitioner through IMPS, but there were no corresponding entries reflected in the Statement of Account of the other Bank, which implies that he is maintaining other Bank Accounts, details of which have not been disclosed.



6. Moreover, the income and source of income shown by the Petitioner in his Income Tax Returns, were different. There were regular transactions with *BBS Food Works Pvt. Ltd.*, which reflects that he has stake in the Company. There were transactions of more than Rs.1,00,000/- per month from father of the petitioner and his assertion that he was being given Rs.20,000/- per month by his father, was apparently false. Moreover, there were no other dependents upon the Petitioner, who is liable to pay for the maintenance for Resopndent No.2 and their son.

7. The claim of Resopndent No.2/Complainant for interim maintenance was contested by the Petitioner, who asserted that his father was running a business in South America, which had to be closed due to his ill health. He further submitted that his father got paralysed and had to return to India in May, 2019, after which business got closed. The passport of his father also shows that he has not travelled to South America since 2019, which supports the contention that the business was closed. Further, there was no document filed by Respondent No.2 to show that he had been drawing profit from *Audra Food Works* and *BBS Food Works Pvt. Ltd.*

8. **Learned MM** after considering the rival contentions of the parties, *vide* Order dated 27.03.2021 awarded Rs.1,50,000/- per month to Resopndent No.2 for herself and the minor son, which included his educational expenses, from the date of filing of the Application till disposal of the case.

9. Aggrieved by the said Order of learned MM, a **Revision Petition bearing CA No. 42/2021** was filed by the Petitioner before learned Principle District and Sessions Judge, Delhi. However, finding no grounds



for interfering with the Orders of learned MM, learned District and Sessions Judge, dismissed the Appeal *vide* Order dated 09.07.2021.

10. Aggrieved by the Order, present Petition has been filed by the Petitioner.

11. The *grounds of challenge* are that in MT No.605/2019, learned Principle Judge, Family Courts had already awarded a sum of Rs.10,000/- per month towards interim maintenance on the same facts and circumstances, *vide* Order dated 14.07.2020. The Supreme Court in the case of *Rajneesh vs. Neha & Anr.* in Criminal Appeal No.730/2020 had observed that while granting relief under the D.V. Act, the Magistrate must take into account and consider if any similar relief has been obtained by the aggrieved person. The grant of interim maintenance under Section 125 Cr.P.C. on the same facts and circumstances has been completely overlooked by the learned Judge.

12. It is further submitted that true nature of the Bank Statement has not been appreciated correctly; merely because amounts had been received in the Account is not reflective of it being the income. There is a distinction between receipt of loans, gifts or income, as per the accepted norms of accounting practices prescribed by Income Tax Act, 1961 and other accounting purpose. The details of the income of the previous years has been referred to show that during the period 01.04.2015 to 01.03.2016, the income of Petitioner was Rs.5,05,426/-.

13. It is further submitted that this Court in *Neetu Mittal vs. Kanta Mittal and Ors.*, MANU/DE/1415/2008, had held that the parent/parents-in-law have no legal liability to support their son/daughter-in-law and the aggrieved women cannot thrust herself upon the parents of her husband nor can she



claim a right to live in the house of parents of her husband, against their consent and wishes.

14. It is contended that learned Principle District and Sessions Judge, while passing the impugned Order dated 09.07.2021, has failed to appreciate that there has been drastic change in circumstances with respect to the financial position of the Petitioner. He had made a failed attempt to start businesses under the name of *Audra Food Works* and *BBS Food Works Pvt. Ltd.* and had incurred exorbitant losses, which resulted in cessation of the income of the Petitioner.

15. Further, it has not been considered that the Petitioner has a responsibility to maintain his father who has no means to sustain himself. The observations of the Apex Court in *Rajeesh vs. Neha (supra)* that the changed circumstances must be considered, has been overlooked .

16. In *Dr. (Mrs) Vijay Manohar Arbat Vs Kashi Rao Rajaram Sawai and Anr.*, the Apex Court had held that Section 125(1)(d) Cr.P.C. has imposed a liability on both the son and the daughter to maintain their father or mother who is unable to maintain himself or herself. The observation of the learned Principle District and Sessions Judge that the petitioner had no other responsibility is patently incorrect, as his father is fully paralysed and his responsibility is on the Petitioner. It has also not been considered that the aggrieved wife has a right to claim the maintenance only from the husband and not his parents, as has been observed by this Court in *Abha Arora Vs. Angela Sharma and Ors.*, MANU/DE/7992/2007.

17. It is further submitted that the petitioner does not have the capacity to pay the maintenance @ Rs.1,50,000/- per month nor does the father of the Petitioner has any legal obligation to pay such amount. It has not been



considered that the businesses started by the Petitioner, resulted in losses. Therefore, the impugned Order suffers from infirmity and is liable to be set aside.

18. Submissions heard and record perused.

19. Admittedly, Petitioner and Respondent No.2 got married on 12.02.2015, and a son was born out of their wedlock on 12.09.2016, but they got separated since 20.12.2018. Respondent No.2 had filed a Maintenance Petition under Section 125 Cr.P.C. in which she was granted maintenance @ Rs.10,000/- per month. Additionally, she had filed the petition under DV Act for claiming maintenance, which had been awarded by the learned MM *vide* Order dated 27.03.2021 @ Rs.1,50,000/-, and upheld by learned Principle District and Sessions Judge on 09.07.2021.

20. The *moot question* is whether the grant of interim maintenance @ Rs.1,50,000/- per month to Resopndent No.2 and their son who is in custody of Resopndent No.2, is justified or this Order requires modification.

21. Respondent No. 2 has relied upon the Bio-Data of the Petitioner which had been given at the time of their marriage, wherein the family income was reflected as Rs.20-25 lacs per month. It is ironical that a family which projects certain incomes suddenly goes into penury and suffers losses as soon as the matrimonial disputes arise and the claims are made by the wife for maintenance. Present case is one such incidence wherein the family of the Petitioner, who had all the affluence, suddenly suffered losses in business and Petitioner is left with no income to be able to sustain his wife and child.

22. The Petitioner himself has stated that his father was doing business in South America, but asserted that said business could not be continued due to



his ill health and he was unable to travel after 2019, to which the passport of Petitioner's father bears the witness.

23. Pertinently, there is clever presentation of facts; while it has been asserted that the father could not go back to South America and there was cessation of business, but as has been rightly observed by the learned MM and learned Principle District and Sessions Judge, the closure of the business would necessary involve some paperwork. The easiest way for the Petitioner to prove that the business had been stopped and no income is being yielded from the said business was to produce the documents of the Company, which significantly have not been produced.

24. Further, the Petitioner himself admits that he had started two Companies, but has suffered huge losses. Again, best way to prove the fact these two businesses had incurred losses or closed was to produce requisite documents, which again interestingly go missing. Aside from bald assertions, there is no documentary evidence to corroborate this assertion of the Petitioner.

25. In this context, it may also be noted that according to the Petitioner, his father had got paralysed and the business ceased, but he has himself claimed that Rs.20,000/- per month are being paid to him by his father, inherently contradictory pleas have been taken by the Petitioner to project his financial status, which of course is refuted by his own submissions.

26. Learned MM as well as learned District and Sessions Judge have rightly referred to Petitioner's bank accounts, wherein transactions from Rs.1-5 lacs had been reflected. It has also been rightly observed that cleverly the two Bank Accounts have been disclosed in the affidavit of income, but it is nowhere stated that there is no other Bank Account, as there were credit



entries through IMPS, which indicated that there were other Bank Accounts of the Petitioner, about which no disclosure has been made.

27. Pertinently, the Petitioner has asserted that his businesses had suffered losses on account of COVID pandemic about which the Respondent No.2 was also aware. However, since Petitioner and Respondent No.2 separated in the year 2018, Respondent No. 2 could not be a witness to the alleged losses suffered during COVID period from 2020 to 2022.

28. The Petitioner has asserted that Respondent No. 2 is a graduate and has completed Montessori Teacher Training Course. She was a professional Tarot Card Reader, Numerologist, professional Yoga Trainer, Vastu Expert and is teaching in ARDEE School, Friends Colony and she is earning about Rs.1,00,000/- per month from business of homemade organic soaps, chocolate, cake, yoga classes, baby shower trousseau packing, Tarot cards, Vastu and Numerology. She is also teaching in ARDEE School, Friends Colony.

29. Respondent No.2 has countered that though she is accomplished in these fields but these were merely her hobbies and were not income generative.

30. The Apex Court in the case of Rajneesh vs. Neha (*supra*) had observed that maintenance amount awarded must be reasonable and realistic and avoid either of the two extremes, i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury.

31. It was further observed in the case of Kanupriya Sharma vs. State & Anr., (2019) 261 DLT 349 that there is distinction between actual earning or



qualification and the capacity of the individual to work. While, the lady may be qualified but it has to be established that she is having an income or salary, which may be done by adducing cogent evidence.

32. The Petitioner while claiming that his wife is highly qualified and has independent earning *qua* the profession of teaching, has failed to produce even a single document in support thereof. The photocopies of the Facebook accounts cannot be a basis to claim that she has an income of Rs.1,00,000/- from her various businesses and profession. Though such document may be an indicator of she having some source of income, but in the absence of any cogent evidence or document to show her income, it cannot be said that she is having an income of Rs.1,00,000/- per month.

33. Much arguments have been addressed that in the Maintenance Petition under Section 125 Cr.P.C. in the similar circumstances, maintenance of Rs.10,000/- per month only has been granted. It is a settled law which does not need reiteration that proceedings under Cr.P.C. and D.V. Act operate in their independent spheres and grant or rejection of maintenance under one may be a relevant fact, but cannot be controlling the substantive orders under the other Act. Also, it not need be emphasised that any maintenance granted under Section 125 Cr.P.C. is liable to be adjusted from the maintenance granted under D.V. Act.

34. Furthermore, it may also be observed that the learned MM had observed that the child was studying in Nursery Class (in 2021) in the Modern School and that the fee of two Quarters had still not been paid, while the last date for payment of fee was 31.03.2021. The Petitioner was directed to clear the arrears of the school fee of the child.



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35. Whatever may be the animosity between husband and wife, the Petitioner as a father cannot deprive his child of even the basic right of schooling and education. In this interim maintenance amount, the expenses of child have also been included.

36. In the end, it may be noted that this is only an Interim Maintenance Order and is subject to the evidence to be led by both the parties. Considering the detailed Order of learned MM and learned District and Sessions Judge, whereby all the requisite aspect have been considered, *it cannot be said that impugned Order suffers from any infirmity or requires any modification. The Petition has no merits and is hereby dismissed.*

37. The observations made herein do not tantamount to expression on the merits of the case, which may be considered in the light of the evidence to be led by the parties.

38. The Petition along with Pending Application(s) is disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 28, 2025/R