



2025:DHC:11067



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

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*Judgment reserved on: 02.12.2025**Judgment pronounced on: 09.12.2025**Judgment uploaded on: 09.12.2025*+ **CRL.REV.P. 662/2024 & CRL.M.A. 15280/2024**

SH. ANKUR JAIN

.....Petitioner

Through: Mr. S.N Gupta, Advocate.

versus

SMT. SWATI JAIN

.....Respondent

Through: Mr. Aashish Kumar Singh and
Ms. Chitrakshi Vedi,
Advocates**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of this revision petition, the petitioner seeks setting aside of judgment dated 28.02.2024 [hereafter '*impugned judgment*'] passed in MT Case No. 127/2020, titled '*Smt. Swati Jain v. Sh. Ankur Jain*', by the learned Judge, Family Court-02, North-East, Karkardooma Courts, Delhi, [hereafter '*Family Court*'] *vide* which the petitioner-husband has been directed to pay maintenance of ₹25,000/- per month to the respondent-wife.

2. Brief facts of the case are that the marriage between the parties was solemnized on 13.07.2016 at Delhi as per Hindu rites and



customs. Eventually, in March 2020, the respondent-wife filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] seeking maintenance, alleging that although her parents had spent about ₹15 lakhs on the marriage, the petitioner-husband and his family had remained dissatisfied with the dowry and had subjected her to continuous harassment, beatings, and demands for an additional ₹5 lakhs and a car. She claimed that on 17.10.2018 she was mercilessly beaten and thrown out of the matrimonial home, and that even when she returned with her brother on 17.02.2019, she was not allowed to enter the house and was abused and threatened. She alleged that the petitioner, who earns about ₹1,50,000/- per month from his jeans manufacturing business, had neglected and refused to maintain her; thus, compelling her to seek maintenance of ₹75,000/- per month.

3. The petitioner-husband, in his reply, denied all allegations of cruelty, dowry demands, etc. He contended that it was the respondent-wife who had voluntarily deserted the matrimonial home, that no dowry of ₹15 lakhs was ever given, and that neither he nor his family members demanded money or a car. He further alleged that the respondent was unwilling to perform her matrimonial obligations and had filed the present petition on false and frivolous grounds. He denied having any liability to pay maintenance as claimed by the respondent.

4. On 18.08.2021, the learned Family Court granted interim



maintenance to the tune of ₹14,000/- per month to the respondent-wife, after assessing the monthly income of the petitioner to be ₹40,000-45,000/- per month. Thereafter, evidence was led by both the parties, and vide impugned judgment, the learned Family Court was pleased to grant maintenance in the sum of ₹25,000/- per month to the respondent herein.

5. The learned counsel appearing for the petitioner submits that the petitioner is educated only up to Class 10 and has very limited earning capacity. It is argued that the learned Family Court has failed to appreciate that no fresh documents were filed by the respondent-wife after the interim maintenance order of ₹14,000/- per month, which had been fixed on the basis of the petitioner's ITR for the assessment year (AY) 2018–2019 (Ex. PW1/5) reflecting an annual income of ₹5,18,000/-, i.e., approximately ₹43,167/- per month. Despite this, the learned Family Court has enhanced the maintenance to ₹25,000/- per month, which is wholly unjustified. It is further argued that the learned Family Court has ignored the petitioner's subsequent ITRs for AY 2020–2021 (₹66,440/-), 2021–2022 (₹1,66,000/-), and 2022–2023 (₹1,55,880/-), as well as his salary slips. It is stated that the petitioner had categorically stated in his evidence that the 2018–2019 ITR pertained to a business registered in his name by his father, who was the actual person managing the business, which later shut down. After being disowned by his father, the petitioner was unable to restart any business of his own. The learned counsel further contends that under Section 127 of Cr.P.C.,



enhancement of maintenance must be based on proof of change in circumstances, such as increase in the husband's income or increase in the wife's needs, but no such evidence was brought on record. Therefore, the enhancement from ₹14,000/- to ₹25,000/- was arbitrary and unsustainable.

6. The learned counsel appearing for the respondent, on the other hand, argues that the petitioner's ITR for the AY 2018–2019 clearly reflects an income of ₹5,18,268/-, i.e., approximately ₹43,189/- per month. It is argued that the petitioner has no dependents other than the respondent, who is a destitute housewife residing with her parents for several years, and it is the petitioner's legal duty to maintain her. It is further submitted that the petitioner had deliberately filed an illegible copy of his Union Bank of India account statement during trial in an attempt to conceal his financial status. Even from the partial legible entries, substantial transactions such as ₹1,50,000/-, ₹1,10,000/-, and multiple entries of ₹30,000/- were visible, indicating that the petitioner has far greater income than disclosed. It is contended that it is implausible that a person declaring an income of ₹5,18,268/- in 2018–2019 suddenly reports drastically reduced income in subsequent years. According to the respondent, the steep decline in income shown in later ITRs is fabricated and intended only to avoid the liability of paying fair maintenance under Section 125 of Cr.P.C.

7. This Court has **heard** arguments addressed on behalf of the



petitioner as well as the respondent, and has perused the material available on record.

8. After considering the rival submissions and examining the record, this Court finds that the learned Family Court has passed a detailed judgment after appreciating the evidence led by both parties. The learned Family Court has rightly considered that the respondent-wife had admitted in her cross-examination that she had not filed any document or evidence to support her claim that petitioner herein is a businessman, manufacturing jeans and earning ₹1,50,000/- or having any share in the HUF property. On the other hand, the petitioner-husband had admitted during his cross-examination that the ITR for the AY 2018–2019 (Ex. PW-1/5) pertains to him and reflects an annual income of ₹5,18,268/-. He also admitted that he was the proprietor of the firm in respect of which the said ITR was filed. In the absence of any credible documentary evidence to the contrary, the learned Family Court was justified in treating the income disclosed in the said ITR as the petitioner's income for the purpose of determination of maintenance.

9. This Court also concurs with the view of the learned Family Court that the salary certificate relied upon by the petitioner is neither dated nor does it contain any reference number, which renders its authenticity doubtful. Likewise, the tenancy agreement placed on record shows an 11-month tenancy commencing from 01.12.2022, but no subsequent rent agreement had been filed, nor had any proof



of actual payment of rent been furnished. The petitioner had therefore failed to substantiate his plea that he was employed on a salary of ₹18,000/- per month or that he was incurring regular rent payments. In these circumstances, the learned Family Court had no material before it to accept the petitioner's assertion regarding his alleged reduced or meagre income.

10. The argument advanced by the learned counsel for the petitioner before this Court, that the learned Family Court could not have enhanced the maintenance amount in the final judgment, since interim maintenance of ₹14,000/- per month had earlier been granted and no fresh documents were filed thereafter, is devoid of merit. Interim maintenance is awarded on a *prima facie* assessment of the material then available, without the benefit of complete evidence. The final determination of maintenance under Section 125 of Cr.P.C. necessarily takes place after the parties have led their evidence and proved their respective cases. Thus, the Family Court was not exercising jurisdiction under Section 127 of Cr.P.C., which deals with modification of an existing maintenance order upon proof of changed circumstances. Rather, it was passing the final judgment under Section 125 of Cr.P.C., in which the earlier interim order had no binding effect on the final quantification.

11. This Court also notes that the petitioner had filed subsequent ITRs for later assessment years, but as correctly observed by the learned Family Court, these ITRs were filed under different heads



and did not inspire confidence. Further, as noted above, in his cross-examination, the petitioner had categorically admitted the correctness of the ITR for AY 2018–2019 and his proprietorship of the concerned firm. Therefore, the learned Family Court rightly placed reliance on the ITR for the assessment year 2018–2019 as the most reliable indicator of the petitioner’s real income.

12. *However*, the contention of the learned counsel for the petitioner that, even on the basis of the ITR for the AY 2018–2019, disclosing annual income of ₹5,18,268/- the maintenance of ₹25,000/- per month is excessive, merits consideration. As per Ex. PW-1/5, the petitioner’s annual income is ₹5,18,268/-, which works out to a monthly income of approximately ₹43,189/-. In case of *Annurita Vohra v. Sandeep Vohra: 2004 SCC OnLine Del 192*, this Court held that the net income of the husband is to be apportioned in “units” or “shares”, ordinarily by keeping two shares for the husband and one share for the wife where there are no children or other dependents, so that the wife ordinarily is held entitled to about one-third of the husband’s net income.

13. Applying the said principle to the facts of the present case, and considering the fact that petitioner herein has no dependents, the petitioner would be entitled to two shares and the wife to one share out of three shares in all. On a monthly income of about ₹43,189/-, one share would come to roughly 14,000–₹15,000/-. Even allowing for some reasonable increase having regard to inflation, the rise in



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cost of living, and the need to secure a dignified standard of living for the respondent-wife, the grant of ₹25,000/- per month as maintenance would amount to awarding her a sum which is more than half of the petitioner's income as reflected in the ITR. Accordingly, this Court is of the considered opinion that the ends of justice would be met by awarding maintenance in the sum of ₹17,000/- per month to the petitioner.

14. The impugned judgment is accordingly modified. The amount of maintenance already paid by the petitioner shall remain adjusted in the future amount of maintenance payable to the respondent.

15. The petition is disposed of in above terms.

16. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
DECEMBER 09, 2025/ns