



2025:DHC:7927



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 10.09.2025*+ **CRL.REV.P.(MAT.) 306/2025, CRL.M.A. 19528/2025 & CRL.M.A. 19530/2025**

SUNIL KUMARPetitioner

Through: Mr. Vikram Singh Dalal and Mr. Pankaj Kumar, Advocates along with petitioner in person

versus

PINKI & ORS.Respondents

Through: Mr. Anuj Jain and Mr. Jai Gaba, Advocates along with respondents in person.

+ **CRL.REV.P. 1090/2024**

PINKI & ORS.Petitioners

Through: Mr. Anuj Jain and Mr. Jai Gaba, Advocates along with respondents in person.

versus

SUNIL KUMARRespondent

Through: Mr. Vikram Singh Dalal and Mr. Pankaj Kumar, Advocates along with petitioner in person

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA**



2025:DHC:7927



JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. *Vide* this common judgment, this Court shall dispose of the cross-petitions filed by the petitioner and the respondent who are legally wedded to each other. By way of both these petitions, the parties assail the order dated 21.05.2024 [hereafter '*impugned order*'], passed by the learned Principal Judge, Family Court, North-West District, Rohini Courts, Delhi [hereafter '*Family Court*'] in M.T. No.323/2023 titled '*Pinki & Ors. v. Sunil Kumar*'.

2. In CRL.REV.P.(MAT.) 306/2025, the petitioner-husband seeks grant of the following prayers:

“i) Set aside Order dated 21.05.2024 passed by the Hon’ble Court of Ld. Principal Judge, Family Court, North-West District, Rohini Courts, Delhi in Mt. No. 322/2023 titled “Pinki & Ors. Vs. Sunil Kumar”; and/or

ii) Remand back the matter to the Ld. Principal Judge, Family Court, North-West District, Rohini Courts, Delhi for deciding the matter afresh after taking into consideration all the facts and circumstances; and/or”

3. Conversely, in CRL.REV.P.1090/2024, the petitioner-wife seeks grant of the following prayer:

“i) Modify the Order dated 21.05.2024 passed by the trial Court in M.T. No.322/2023 titled “Pinki & Ors. Vs. Sunil Kumar”; and thereby enhance the interim maintenance awarded to the petitioners to Rs.40,000/- per month ”

4. Briefly stated, the facts of the present case are that the marriage between the parties was solemnized on 04.12.2013



2025:DHC:7927



according to Hindu rites and ceremonies at Anubhav Vatika, Budh Vihar, Delhi. Out of the said wedlock, two children i.e. one son and one daughter were born on 16.02.2015 and 21.01.2017 respectively. On 09.05.2023, due to temperamental differences between the parties, the wife had left the matrimonial home and had started living separately. Thereafter, the wife had filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter 'Cr.P.C.'] seeking maintenance from the husband to the tune of Rs.50,000/- per month.

5. By way of the impugned order dated 21.05.2024, the learned Family Court, while granting interim maintenance in the sum of Rs.21,000/- per month in favour of the wife and two children, observed as under:

“ Petitioner stated that she was married to respondent on 04.12.2013 at Kharkhoda, Distt. Sonapat, Haryana and out of the wedlock, petitioner no. 2 and 3 were born. Respondent and his family members committed numerous acts of cruelty due to which she was living separately from the respondent in her parental house along with two minor children. Petitioner stated that respondent was working as a constable in Delhi Police and getting Rs. 70,000/- per month and also having rental income from various joint family properties.

Respondent filed reply to the application denying all the allegations and stated that petitioner left the matrimonial home on her own and she was more interested in staying in Delhi. She never performed matrimonial duties and therefore she was not entitled for any maintenance. Further respondent states that petitioner was well qualified and having professional qualification in ANM and was working as nurse.

Both the parties have filed their income & assets. Petitioner stated that she was earlier working as a Nurse in Mohalla Clinic on contract basis but her contract has come to an



end in November, 2018 and thereafter she did not work. Petitioner stated that she was presently unemployed and having no source of income. As per her income affidavit, she was 12th pass and having qualification in ANM and incurring expenditure of Rs. 25,000/- per month on the petitioners. Petitioner was also spending substantial amount on education of children.

Respondent stated that he was graduate, working in Delhi Police and getting salary of Rs. 66,505/- and after deduction getting Rs. 39,100/- per month and his monthly expenditure was of Rs. 58,557/- per month and he was paying school fees of children and filed fee receipts of the same.

At this stage, the fact as to whether petitioner is living separately from respondent due to justifiable reason would be a matter of trial. Petitioner no. 1 along with minor children were residing separately and petitioner no. 1 is currently unemployed therefore entitled for maintenance. Petitioner no. 1 mentioned that her requirement was Rs. 15,000/- per month for herself and Rs. 3,000/- each per month for both the children and also required school fees which are shown to be Rs 30,000/- per annum each for both the children i.e., around Rs.3,000/- per month.

Respondent filed his salary slip. As per his salary slip, his gross salary was Rs. 64,775/- and after statutory deduction had got Rs. 59,312/- in the month of December, 2023. But in this salary slip, there is no deduction of income tax. The other two salary slips, have deduction of Rs. 21,000/-, which shows that respondent had opted not to deduct any amount in prior salary slips and opted for gross deduction in last two monthly salaries. Thus, the annual salary, would be around Rs. 7 Lakhs 50 Thousand and the income tax deduction would on average be about Rs. 30,000/- per year or Rs. 3,000/- per month. Therefore, respondent's salary after statutory deduction can be taken as Rs. 55,000/- per month. Considering the petitioners' requirement of general expenses of about Rs. 10,000/-, school expenses of Rs. 6,000/- per month (Rs. 3,000/- each) and other miscellaneous expenses of Rs. 5,000/- i.e., around Rs. 21,000/- per month. Accordingly, at this stage, petitioners are entitled for interim maintenance @ of Rs. 21,000/- per month from the date of filing of the interim maintenance application till the disposal of the case. Respondent to pay current maintenance directly into petitioner no. 1's bank account by 10th day of calendar month and clear the arrears within 4 months. Respondent shall be entitled to adjust any amount already paid to petitioner as



2025:DHC:7927



maintenance in any other proceedings for this period in question.

Put up for PE for date already fixed i.e., 23.07.2024.”

6. The learned counsel appearing for the wife argues that the learned Family Court has wrongly assessed the income of the husband as Rs.55,000/- per month. In this regard, it was argued that the actual monthly salary of the husband is Rs.64,775/-, besides an extra one-month pay of Rs.50,078/-, bonus of Rs.6,908/- and ration money of Rs.3,965/-. Further, it was argued that the income of the husband for the month of February, 2024 i.e. Rs.66,505/- was not taken into account, instead, what was considered was his salary for the month of December, 2023 i.e. Rs.64,775/-. Furthermore, it was submitted that the husband has not filed his Income Tax Return with his Income and Assets Affidavit, and his bank statement for the last three years, as mandated by the Hon’ble Supreme Court in the case of ***Rajnish v. Neha: (2021) 2 SCC 324***. It was also contended that the wife’s affidavit shows the children’s monthly expenses to be Rs.25,000/-, while no one is dependent upon the husband other than his wife and children. Thus, it is accordingly prayed that the impugned order granting maintenance to the wife and her children to the tune of Rs.21,000/- be modified to the extent that an amount of Rs.40,000/- per month be ordered to be paid to them.

7. The learned counsel appearing for the husband, on the other hand, argues that the impugned order dated 21.05.2024 passed by the learned Family Court, is arbitrary, perverse, and mechanically passed



2025:DHC:7927



without giving due consideration to the relevant documents adduced in respect of the income and assets of the husband. It is argued that the learned Family Court has not considered the expenses and liabilities of the husband and has also failed to consider that his wife is a well-qualified person, capable of maintaining herself. It is thus submitted that the interim maintenance of Rs.21,000/- per month granted in favour of the wife and two children is highly exorbitant and needs to be set aside.

8. This Court has **heard** arguments addressed on behalf of both the parties, and has perused the material placed on record by either side.

9. The Court has given its thoughtful consideration to the impugned order. The learned Family Court has rightly taken into account the gross salary of the husband as well as the statutory deductions, including income tax, and has thereafter arrived at the conclusion that the net salary in hand of the husband would be around Rs. 55,000/- per month. This finding does not call for any interference.

10. In this Court's opinion, the contention of the husband that he has already paid the school fee of the children for the session 2023–24, and therefore the monthly maintenance of Rs. 3,000/- awarded to each child is excessive, is devoid of merit. It is to be kept in mind that the responsibility of a parent is not confined merely to the payment of school fees; children have many other recurring expenses such as



2025:DHC:7927



travelling, tuition fee, stationery, clothing, medical requirements, and other incidental needs. Therefore, the grant of an amount of Rs. 3,000/- per month to each child cannot, by any standard, be said to be excessive.

11. This Court also notes that the learned Family Court has granted a sum of Rs. 15,000/- per month to the wife to meet household and miscellaneous expenses. In a metropolitan city like Delhi, such an amount is by no means extravagant. Accordingly, this Court finds that the total interim maintenance of Rs. 21,000/- per month, as awarded, is reasonable and justified, and there is no infirmity in the order of the learned Family Court.

12. It must also to be borne in mind that the maintenance so awarded by way of the impugned order is only interim in nature. The final determination regarding the quantum of maintenance will be made only after the parties lead their respective evidence.

13. As regards the submission of the learned counsel for the husband that the wife is a qualified nurse and was earlier employed, and that she has chosen not to work deliberately, this Court finds no substance in the argument. The distinction between the capacity to earn and actual earning has been clearly drawn by the Hon'ble Supreme Court in *Shailja v. Khobbanna: (2018) 12 SCC 199*. At present, the wife bears the primary responsibility of taking care of two minor children, managing the household, and attending to the educational and personal needs of the children. In such



2025:DHC:7927



circumstances, it may not be feasible for her to resume work as a nurse. Even otherwise, the record shows that she was employed only on a contractual basis at a Mohalla Clinic and had lost her job as far back as 2018. Thus, this submission of the husband is of no avail.

14. On the other hand, the contention of the wife that the husband has several other sources of income apart from his salary is also without merit in the absence of any supporting evidence. Such an issue can only be determined in the course of trial upon proper proof being led.

15. Similarly, with respect to the wife's claim that the husband also receives bonus and ration money amounting to Rs. 6,000/- and Rs. 4,000/- respectively, and that these amounts should be treated as part of his income, this Court is of the view that this issue could be decided only after leading evidence. The husband has already contended that such payments are made annually, and in the absence of evidence, no conclusive finding can be given at this stage.

16. In light of the above discussion and considering the overall facts and circumstances of the case, this Court finds no infirmity in the order passed by the learned Family Court. Consequently, the petition filed by the husband, i.e., CRL.REV.P.(MAT.) 306/2025, as well as the petition filed by the wife, i.e., CRL.REV.P. 1090/2024, stand dismissed. Pending applications, if any, also stand disposed of.

17. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.



2025:DHC:7927



18. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
SEPTEMBER 10, 2025/A