



2025:DHC:8448



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 18.09.2025*+ **CRL. M.C. 1932/2022**

VINTI GUPTA

..... Petitioner

Through: Mr. Abhas Mishra, Ms. Neha
Singhal and Mr. Hukan Chand,
Advocates

versus

TARUN AGGARWAL

..... Respondent

Through: Mr. Amit Goswami, Advocate

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

1. By way of the present petition, the petitioner-wife assails the order dated 28.02.2022 [hereafter '*impugned order*'] passed by learned Additional Sessions Judge-08, West, Tis Hazari Courts, Delhi [hereafter '*Appellate Court*'] in Criminal Appeal No. 156/2021, titled '*Tarun Aggarwal vs. Vinti Gupta*', arising out of Complaint Case No. 775/2019 filed by the petitioner under the provisions of the Protection of Children from Domestic Violence Act, 2002 [hereafter '*PWDV Act*'].

2. By the impugned order, the learned Appellate Court has reduced the amount of interim maintenance granted in favour of the petitioner and her minor son by the learned Metropolitan Magistrate



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(Mahila Court-01), West, Tis Hazari Courts, Delhi [hereafter '*Magistrate*'] *vide* order dated 02.11.2021, from ₹10,000/- to ₹5,000/- per month.

3. The facts of the case, in brief, are that the petitioner had married the respondent on 18.06.2017 at Clay One Grand Banquet Hall, Mayapuri, Delhi, according to Hindu rites and ceremonies. Out of the wedlock, a male child 'P' was born on 05.11.2018, who remained in the care and custody of the petitioner. The petitioner alleges that after the marriage, she had not been treated well at her matrimonial home, and had been subjected to taunts and harassment for bringing insufficient dowry. She had further alleged that despite continuing her employment after marriage, she had been compelled to shoulder all household responsibilities, while being met with neglect and humiliation from the respondents.

4. A complaint was accordingly filed by the petitioner under Section 12 of the PWDV Act, and on an application filed under Section 23(2) of PWDV Act seeking interim maintenance, the learned Magistrate directed the respondent-husband to contribute ₹5,000/- per month as interim maintenance towards the minor child from the date of application till his majority/entitlement, whichever was earlier. No interim maintenance had been awarded in favour of the petitioner-wife, as she had been found earning and competent to sustain herself; however, she was held entitled to ₹5,000/- per month towards rental expenses. Thus, the respondent was directed to pay a total of ₹10,000/- per month as interim maintenance.



5. Aggrieved by the aforesaid order, the husband had filed an appeal under Section 29 of PWDV Act before the learned Appellate Court. The learned Appellate Court partly allowed the appeal by modifying the impugned order to absolve the husband from paying ₹5,000/- as rental expenses to the wife. It, however, confirmed the interim maintenance of ₹5,000/- awarded in favour of the child.

6. The learned counsel for the petitioner-wife argues that the impugned order suffers from serious infirmities as it ignores material placed on record. It is submitted that both the petitioner and the respondent were registered in the Patrika of Aggarwal Pariwar Sangathan Trust for potential matchmaking and the records thereof clearly reflected that the respondent himself had disclosed his annual income as ₹6,00,000/-. Despite this, he misrepresented before the learned Appellate Court that his monthly income was only ₹24,000/-, while failing to comply with the learned Court's direction to produce his bank statements from Axis Bank and Canara Bank. It is further urged that the respondent has taken inconsistent stands – on one hand claiming to earn merely ₹20,000/- as commission, and on the other asserting that he bears the entire household expenditure and pays ₹5,000/- monthly towards repayment of a loan of ₹3,00,000/ – which renders his version unreliable. It is contended that the so-called loan document produced in the form of a promissory note is also false and fabricated, since it does not find mention in his income tax return (ITR) or any other supporting records. The learned counsel further points out that the respondent holds an LIC policy and multiple term



deposits in his own name, while his parents also maintain substantial independent deposits in Canara Bank and the Post Office, demonstrating that they are not dependent on him. In these circumstances, it is argued that the respondent has deliberately concealed his true income and filed a false affidavit with mala fide intent to evade his liability towards the petitioner and their minor child.

7. The learned counsel for the respondent-husband, on the other hand, argues that the impugned order fails to take into account the petitioner's independent earning capacity. It is pointed out that the petitioner is a qualified postgraduate/MBA and is employed with IDBI Bank, drawing a monthly net salary of ₹18,900/-, as disclosed by her in her own income affidavit. It is further contended that the respondent has limited means, earning only ₹20,000/- per month, out of which he is required to meet household expenses as well as discharge his financial liabilities, including repayment of a loan of ₹3,00,000/- with an instalment of ₹5,000/- per month. In such circumstances, it is argued that directing him to pay ₹5,000/- towards maintenance for a child of tender age, who is barely two years old, imposes a disproportionate and excessive burden upon him. It is also urged that the petitioner herself voluntarily left the matrimonial home without reasonable cause, having insisted on living separately from the respondent's parents and maintaining a luxurious standard of life beyond his means. The respondent, therefore, cannot be saddled with an additional financial obligation that is inconsistent with his actual



income and capacity to pay. Thus, it is prayed that the present petition be dismissed.

8. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent, and has perused the material available on record.

9. In the present case, it is pertinent to note that firstly, the petitioner-wife is an educated woman, employed with IDBI Bank, and is admittedly drawing a net salary of ₹18,900/- per month, as reflected from her own income affidavit placed on record before the learned Magistrate. Both the Courts below have thus rightly observed that she is not financially dependent on the respondent-husband, and consequently, no *prima facie* case for grant of interim maintenance is made out in her favour, as the husband is also earning similar income, which is discussed in succeeding paragraphs. It is well-settled that the concept of maintenance, within ‘monetary orders’ under the PWDV Act, is meant to provide financial support to a woman who is unable to maintain herself, but the same cannot be stretched to cover a spouse who is admittedly earning equally as that of her husband and is capable of maintaining herself.

10. However, this Court finds that the learned Appellate Court, while setting aside the award of ₹5,000/- per month to the petitioner towards rental expenses, premised its reasoning on the fact that the petitioner-wife was residing with her parents and, therefore, not entitled to any amount separately towards rent. Such a view,



however, fails to take into account that a wife cannot be compelled to reside with her parents indefinitely, nor can the burden of her sustenance be permanently shifted upon them. The right of a wife to live separately and with dignity is well recognised, and the grant of rental expenses is an essential component of ensuring her ability to secure independent accommodation.

11. It is only once maintenance is awarded and received that the petitioner-wife can reasonably be expected to shift into rented accommodation alongwith her minor child and establish her independent residence without financially straining her parents. To deny her rental expenses merely because she is compelled, in the interim, to live with her parents, would defeat the very object of granting maintenance under the law.

12. Accordingly, this Court is of the considered view that the learned Appellate Court erred in setting aside the award of ₹5,000/- per month towards rental expenses to the petitioner-wife.

13. As regards the minor son, the learned Appellate Court has upheld the award of ₹5,000/- per month as maintenance, which was directed by the learned Magistrate. The respondent-husband, as per his admission, earns ₹20,000/- per month, whereas his ITR reflects an income of about ₹25,000/- per month. Thus, considering the monthly income of the husband, award of ₹5,000/- per month for the maintenance of minor son, who is in the custody of the wife, cannot be said to be on the higher side, particularly keeping in view the cost



of living, medical care, nutrition, education, and other incidental expenses required for the upbringing of a child of tender years.

14. This Court is also mindful of the legal position that the obligation to maintain a child is a shared responsibility of both parents. The learned Appellate Court has taken into account that the petitioner-wife is herself earning, and thus while she contributes towards the child's upbringing from her own resources, the respondent-husband is under a corresponding duty to contribute proportionately from his income. The amount fixed by the Courts below strikes a balance between the capacity of the husband and the reasonable requirements of the minor child.

15. The argument advanced on behalf of the petitioner-wife that the respondent-husband had suppressed his true financial position and concealed assets of his family members is not convincing at this stage while considering the prayer for interim maintenance. The learned Magistrate as well as the Appellate Court have confined themselves to the income of the husband as reflected in the records including the ITR and after considering the income affidavits of the parties, and has also rightly clarified that the determination of final maintenance shall be made by the at a later stage, on the basis of evidence adduced by both the parties. This Court finds no error in such an approach, as interim maintenance orders are only provisional and subject to modification after conclusion of trial.

16. For the aforesaid reasons, this Court is unable to sustain the



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impugned order dated 28.02.2022 passed by the learned Appellate Court, and the same is accordingly set aside to the extent it denies rental expenses to the petitioner-wife. The direction of the learned Magistrate awarding a sum of ₹5,000/- per month towards rental expenses to the petitioner-wife is restored. In addition thereto, the award of ₹5,000/- per month towards the maintenance of the minor son, as upheld by the learned Appellate Court, is also affirmed.

17. The petition is accordingly disposed of in above terms.

18. It is, however, clarified that the observations made hereinabove are confined to the adjudication of the present petition and shall not prejudice or influence the decision of the learned Magistrate with respect to the final determination of amount of maintenance. The petitioner-wife shall also be at liberty to raise all the contentions, with respect to the income of respondent-husband and/or produce evidence in this regard, during the course of trial.

19. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

SEPTEMBER 18, 2025/ns

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