



2025:DHC:5874



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 21.07.2025*+ **CRL.REV.P. 392/2024 & CRL.M.A. 8864/2024**

AMIT JOSHI

.....Petitioner

Through: Ms. Usha Pandey & Mr.
Vedant Kulshrestha, Advocates

versus

DIKSHA

.....Respondent

Through: Mr. R.K. Singh and Ms.
Priyanka Singh, Advocates**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of this revision petition, the petitioner-husband seeks setting aside of the order dated 22.12.2023 [hereafter '*impugned order*'] passed by the learned Judge, Family Courts, Karkardooma Courts, Delhi [hereafter '*Family Court*'] in Mt. Case No. 682/2023.

2. Brief facts of the case are that the petitioner and the respondent had got married to each other on 18.11.2021 at Noida, Uttar Pradesh, and their marriage was registered on 29.11.2021. It is stated that subsequently, on 02.01.2022, both parties travelled to Dubai. It is the case of the respondent-wife that since the beginning of the marital relationship, she was ill-treated and harassed, both physically and



mentally, for demand of dowry. She also alleged that in Dubai, the petitioner and his mother had attempted to throw her off the building, however, she had somehow managed to save herself. Thereafter, she returned to India. Eventually, the present application under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'], seeking monthly maintenance of ₹5,00,000/- from the petitioner, was filed in November, 2023. Along with the said application, an interim maintenance application was also filed, seeking ₹2,00,000/- per month during the pendency of the proceedings.

3. The learned Family Court, after hearing both the parties, passed the impugned order dated 22.12.2023, granting ad-interim maintenance of ₹50,000/- per month to the respondent-wife.

4. The learned counsel appearing for the petitioner-husband has assailed the impugned order, contending that it is legally unsustainable and factually perverse. It is submitted that the learned Family Court erred in granting *ad interim* maintenance to the respondent-wife without affording the petitioner an effective opportunity to be heard or allowing him to file a reply. The order was passed on the very first date of appearance, without calling for affidavits of income, assets, and liabilities from both parties, as mandated by the Hon'ble Supreme Court. It is further contended that the respondent-wife is residing separately at her parental home in Noida of her own volition, without any sufficient reason. She continues to hold possession of the keys to the Gurugram residence belonging to the petitioner's mother, which



indicates that she was not compelled to leave the matrimonial home. The learned Family Court, it is submitted, failed to consider the aspect of desertion by the respondent-wife. The learned counsel has also argued that the respondent is professionally qualified, having completed her Bachelor's degree in Physiotherapy and then pursued her Master's degree. It is submitted that the respondent is employed at a private clinic and drawing a decent income, yet no inquiry was made by the learned Family Court to ascertain her earnings before awarding a substantial amount of *ad interim* maintenance. It is further contended that the petitioner-husband, working in Dubai as a Software Engineer, earns around AED 20,000 per month, but incurs monthly expenses of approximately AED 16,500 due to the high cost of living. Additionally, his father, mother, and grandmother are fully dependent on him for their medical and daily expenses. It is, therefore, submitted that the impugned order was passed in haste, without a fair evaluation of the petitioner's financial constraints or the respondent's earning capacity. In addition, it is also argued on behalf of the petitioner that the respondent herein has levelled false and frivolous allegations against the petitioner. It is also stated that the respondent used to work and earn in Dubai, and she has concealed material facts from the Courts. Accordingly, it is prayed that the impugned order be set aside, or in the alternative, the matter be remanded to the learned Family Court for fresh consideration in accordance with law after due opportunity is given to both parties.

5. The learned counsel appearing for the respondent-wife has



opposed the present revision petition, contending that the impugned order granting *ad interim* maintenance of ₹50,000/- per month, is legally sound and in strict conformity with binding precedents, particularly ***Kusum Sharma v. Mahinder Kumar Sharma*** (FAO 369/1996, decided on 06.08.2020). It is submitted that the petitioner-husband had appeared before the learned Family Court on 22.12.2023 and admitted that he was earning ₹3.5 to ₹4 lakhs per month in Dubai. Based on this admission alone, the learned Family Court was well within its powers to grant *ad interim* maintenance, which constitutes only a meagre portion of the petitioner's admitted income. It is further submitted that the order could even have been passed *ex parte* as per law, but was passed after hearing the petitioner. It is contended that the petitioner has failed to disclose material financial information, including details of four UAE bank accounts, credit card statements, and rental income from a villa in Dubai, thereby violating the disclosure requirements laid down in ***Rajnesh v. Neha***: (2021) 2 SCC 324. Further, post the filing of the maintenance petition, the petitioner transferred substantial sums (AED 78,000 ≈ ₹18 lakhs) to undisclosed accounts and submitted manipulated salary slips. The learned counsel also submits that the petitioner has chosen to remain absent from subsequent proceedings despite being aware of the same, and is attempting to misuse the process of law. It is argued that the ad-interim maintenance awarded is modest, justified, and based on admitted facts, whereas the petitioner appears willing to spend on litigation but unwilling to support his wife. Accordingly, it is prayed



that the present petition be dismissed with costs, as it is devoid of merit and constitutes an abuse of the judicial process.

6. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

7. The issue that arises for consideration in the present petition is a narrow one – whether any interference is warranted in the impugned order passed by the learned Family Court granting *ad interim* maintenance in favour of the respondent-wife.

8. The relevant portion of the impugned order reads as under:

“ It is submitted by the petitioner that she is a housewife and she is not earning and that she is dependent upon her parents for her day to day needs. It is further submitted by the petitioner that she has filed her income affidavit which is on record and she may be granted interim maintenance as the respondent is earning Rs. 10 Lacs per month from various sources and he is living in Dubai.

Respondent who is present in person seeks time to file his income affidavit and he submits that he is a Software Engineer by profession and is earning the amount of Rs. 3.50-4 Lacs per month in Dubai and due to inflation rate, and his expenses in Dubai it is becoming very difficult for him to maintain himself in Dubai. Respondent further submits that his father met with accident last year and he remained admitted in Trauma Centre, AIIMS as well and he is now dependent upon him. Respondent also submits that his mother and grandmother are also dependent upon him.

Considering the submissions made and in order to avoid destitution and vagrancy, I deem it appropriate to grant ad-interim maintenance @ Rs. 50,000/- per month to the petitioner from today till further orders.”

9. This Court has recently had the occasion to consider the



principles governing the grant of *ad interim* maintenance in the case of ***Navin Kumar v. Kavita***: 2025: DHC: 5114, wherein the relevant judicial precedents were summarised. The pertinent observations in the said judgment are as under:

“Law of Grant of Ad-Interim Maintenance: Summarised and Clarified

25. In view of the above discussion, the legal position regarding grant of ad-interim maintenance, as per the ***Kusum Sharma v. Mahinder Kumar Sharma*** (*supra*) series of decisions, can be summarized as follows:

Granting Ad-Interim Maintenance on the basis of admitted income of the respondent:

- The Court is empowered to grant ad-interim maintenance based on the admitted financial capacity of the respondent, with the objective of avoiding undue hardship to the claimant pending final determination.
 - Where such admitted income is already available on record, for instance, through a salary slip or similar documentary evidence filed alongwith the pleadings, the Court may proceed to fix ad-interim maintenance immediately, even before affidavits of income and expenditure are filed.
 - In the absence of such documents, once the affidavit of income, assets and expenditure is filed by the respondent, the Court may fix ad-interim maintenance based on the admitted income of the maintenance, without awaiting the final outcome of the application for interim maintenance.

Grant of ad-interim maintenance in case of delay, non-compliance or defective affidavit:

- If either party delays the filing of the required affidavit, submits an affidavit that is deficient or non-compliant, or withholds relevant information/ documents, and such delay causes hardship to the claimant, the Court is not precluded from granting ad-interim maintenance. In such a situation, the Court may proceed to fix an



appropriate ad-interim amount after hearing both parties, thereby ensuring that interim relief is not denied merely due to procedural lapses or delay in compliance.

26. Thus, in *Kusum Sharma v. Mahinder Kumar Sharma* (*supra*), it was directed that upon the filing of a maintenance petition, notice shall be issued to the respondent, who shall file a reply, and the pleadings shall be completed. Thereafter, both parties were required to simultaneously file affidavits of income, assets, and expenditure, to facilitate an informed and fair assessment of the claim. It was in this context that the Court permitted the grant of ad-interim maintenance, either on the basis of an admitted document, such as a salary slip already available on record by way of pleadings, or on the basis of admissions contained in the respondent's income affidavit. In the absence of any such material, the Court was required to hear both parties before determining any ad-interim amount. Thus, the clear mandate was that an ex-parte ad-interim maintenance order, without hearing the respondent or without there being any material indicating his admitted income, was not to be passed by a court of law.

27. At this juncture, it is relevant to note that in *Rajnesh v. Neha*: (2021) 2 SCC 324, the Hon'ble Supreme Court directed that Affidavit of Disclosure of Assets and Liabilities would be filed by the claimant alongwith the maintenance petition/interim maintenance application. Similarly, the respondent would file his Affidavit of Disclosure of Assets and Liabilities alongwith the reply. Thus, the directions issued in *Kusum Sharma v. Mahinder Kumar Sharma* (*supra*) stood, in effect, overruled to this extent.

28. **Therefore**, it can be safely held that once the Affidavit of Disclosure of Assets and Liabilities has been filed by both the parties, or even if the respondent has not filed the same along with his reply to the maintenance petition, but there are documents on record showing some admitted income of the respondent, the Court can grant ad-interim maintenance to alleviate the hardship of the claimant, pending its decision on the grant of interim maintenance and determination of its quantum."

10. Thus, the learned Family Court is empowered to grant ad-interim maintenance upon recording the preliminary submissions



of both parties and taking into account the *prima facie* material or admitted income of the husband, even if a final determination of income is yet to be made. The grant of *ad interim* maintenance is intended to ensure basic sustenance and to prevent a situation of destitution for the financially dependent spouse during the pendency of an application seeking interim maintenance.

11. In the present case, this Court is of the view that the learned Family Court has acted in accordance with this settled principle.

12. A perusal of the impugned order reveals that the learned Family Court, after considering the submissions made by both parties, deemed it appropriate to grant *ad interim* maintenance to the respondent-wife. As evident from the record, the respondent-wife had submitted that she was a housewife, without any source of income, and was dependent upon her parents for her day-to-day expenses. She had also filed her income affidavit in support of this submission. The petitioner-husband, who was present in person, submitted that he was a Software Engineer working in Dubai, earning between ₹3,50,000 to ₹4,00,000 per month. He further submitted that due to high inflation and living expenses in Dubai, it was difficult for him to maintain himself, and that his parents and grandmother in India were also financially dependent on him.

13. In the present case, the petitioner-husband had himself made a categorical admission before the learned Family Court in October 2023 that he was earning between ₹3,50,000 to ₹4,00,000 per month



while working in Dubai as a Software Engineer. This admission formed the basis of the impugned order. Subsequently, the petitioner filed his income affidavit in February 2024 wherein he clearly stated that he was earning AED 20,000/- per month, which roughly translates to about ₹4,70,000 per month. He also submitted in his affidavit that his monthly expenses were to the tune of AED 16,500/- which includes his rent, utilities, food, transportation, as well as maintenance of his parents. Thus, even assuming the entirety of these expenses to be genuine and true, it would still leave him with a surplus of AED 3,500/- per month, which is approximately ₹85,000.

14. It is not disputed that the cost of living in Dubai is significantly higher than in India, and a person living and working abroad would naturally have to incur higher expenses, including accommodation, transportation, and daily essentials. However, the same appears to have been duly noted and considered by the learned Family Court while determining the amount of *ad interim* maintenance. Importantly, despite the petitioner-husband earning approximately ₹4,70,000 per month as per his own affidavit, the learned Family Court has awarded only ₹50,000 per month to the respondent-wife as *ad interim* maintenance. This amount constitutes less than 1/9th of the petitioner's admitted monthly income. Even if one were to take the lower figure of ₹4,00,000 per month as stated by him at the time of passing of the impugned order in October 2023, the *ad-interim* maintenance amount awarded would constitute only 1/8th of his admitted income.



15. The grant of ₹50,000 per month, therefore, cannot be said to be excessive or unreasonable, particularly when the same has been fixed at the ad-interim stage and is subject to modification after final adjudication of the interim maintenance application. It appears from a bare perusal of the impugned order that the learned Family Court has applied its judicial mind to the submissions made by both parties and has exercised its discretion in a judicious and balanced manner.

16. With respect to the earning capacity of the respondent-wife, it is a matter of record that although she has completed her Bachelor's and Master's degrees in Physiotherapy, she has specifically stated that she is not employed and has no independent income. While the petitioner-husband vaguely alleged in his income affidavit that he had heard she was working in a private physiotherapy clinic, he did not place any documentary material or evidence in support of this assertion. The law in this regard is clear – there is a distinction between being qualified to earn and actually having a regular income. In the absence of any material to show that the respondent-wife was indeed earning, the learned Family Court was justified in proceeding on the basis of her affidavit stating that she was not working.

17. As regards the argument that the petitioner-husband was not granted a fair hearing before the order was passed, the impugned order itself discloses that he was present in person and was heard by the learned Family Court. His submissions regarding his admitted income, expenses, and family responsibilities were duly recorded and



considered. Thus, the requirement of a *prima facie* hearing, in line with the judgment in ***Kusum Sharma v. Mahinder Kumar Sharma***: 2020 SCC OnLine Del 931 was fully complied with.

18. In view of the foregoing, this Court finds no infirmity in the impugned order passed by the learned Family Court granting *ad interim* maintenance of ₹50,000 per month to the respondent-wife. The amount so awarded is purely provisional and has been awarded solely with the object of preventing financial hardship to the respondent-wife, pending the final adjudication of the interim maintenance application.

19. The petitioner-husband shall continue to pay ₹50,000 per month to the respondent-wife as *ad interim* maintenance, and shall clear all arrears within two months from the date of this order.

20. The learned Family Court is also requested to make an endeavour to decide the interim maintenance application on merits, in accordance with law, preferably within a period of six months from the date of this order.

21. Accordingly, the petition, along with pending application, is dismissed, with the above directions.

22. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 21, 2025/ns