



2025:DHC:4213



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 22.05.2025*+ **CRL.REV.P. 291/2024 & CRL.M.A. 6489/2024**

RAJEEV BHARDWAJPetitioner

Through: Ms. Priyanka Gupta, Advocate

versus

SMT DIPTI BHARDWAJRespondent

Through: Mr. Santosh Kumar Singh,
Advocate.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The present petition has been preferred by the petitioner-husband, being aggrieved by the judgment dated 01.12.2023 [hereafter '*impugned judgment*'] passed by the learned Principal Judge, Family Court, North District, Rohini Courts, Delhi [hereafter '*Family Court*'].

2. By way of the impugned judgment, the learned Family Court was pleased to allow the petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] filed by the respondent-wife and direct the petitioner to pay maintenance at the rate of Rs.15,000/- per month from the date of filing the petition i.e. 03.07.2017, till the time she is legally entitled to receive the same. It



was further ordered that the maintenance amount shall be increased by 10% at the completion of every two years commencing from 01.12.2024.

3. Brief facts of the case are that the petition under Section 125 of the Cr.P.C had been filed by the respondent-wife before the learned Family Court on the ground that the marriage between the parties was solemnized on 30.11.1995 at Delhi, and two children i.e. one son and one daughter were born out of the said wedlock, who were aged 20 and 19 years respectively at the time of filing the petition, and that they were in the custody of the respondent-wife, and their educational expenses were borne by the parents of the respondent-wife. It was alleged that due to cruelties committed by the petitioner, she was forced to live separately from him. It was averred that she was not earning any income whereas the petitioner herein was a driver employed with Delhi Transport Corporation (DTC) and earning a salary of about Rs.30,000/- per month.

4. During the course of proceedings, written statement and income affidavit was filed by the petitioner-husband before the learned Family Court and on 06.12.2017. By virtue of order dated 18.12.2017, the respondent-wife was granted interim maintenance at the rate of Rs.10,000/- per month, from the date of filing the petition till its disposal. The petitioner-husband had contested the petition on the ground that no incident of cruelty, as alleged, had ever taken place, and he had maintained the petitioner with love and affection.



He also contended that the respondent-wife was more educated than him and she had thrown the petitioner out of the matrimonial home. He further contended that he was suffering from several ailments and had been compelled to reside in a rented accommodation. The petitioner also stated that the respondent-wife did not want to stay with his parents and, thus, there used to be frequent quarrels between them. The petition was contested, and after the evidence was led by both the parties, and final arguments were heard, the impugned judgment was passed by the learned Family Court.

5. The petitioner-husband, aggrieved by the impugned judgment, has challenged the same on the ground that the judgment is contrary to the well-settled principles of law for grant of maintenance. The learned counsel appearing on his behalf has argued that the petitioner had never neglected or refused to maintain the respondent. It is argued that the evidence was not properly appreciated by the learned Family Court, and the Court also did not consider the liabilities and expenditure of the petitioner while passing the impugned judgment. It is also stated that the maintenance amount awarded to the respondent is arbitrary and the impugned order is based on guesswork, surmises and conjectures. The learned counsel appearing for the petitioner also contends that the order directing an increase of 10% in the amount of maintenance after completion of every two years is also arbitrary. The learned counsel has also pointed out that the evidence recorded before the learned Family Court did not substantiate the claim of the



respondent-wife that she was treated with cruelties or was ill-treated, mercilessly beaten and not looked after by the petitioner husband. The learned counsel also states that the amount awarded to the respondent-wife whereas the petitioner-husband has to live on rent. It is accordingly prayed that the impugned judgment be set aside.

6. Conversely, the learned counsel appearing for the respondent has argued that the impugned judgment is well-reasoned, based on a thorough appreciation of the evidence on record, and suffers from no legal infirmity or perversity warranting interference by this Court. The findings recorded by the learned Family Court are neither arbitrary nor contrary to the material on record. It is further submitted that the petitioner-husband had failed to produce any substantial or credible evidence to rebut the consistent version of the respondent-wife regarding the acts of cruelty inflicted upon her. On the contrary, his conduct, as evident from his own cross-examination, clearly indicated an indifference and lack of responsibility towards the wife and children. It has been further argued that the learned Family Court has rightly taken note of the financial capacity of the petitioner herein, including his salaried employment, LIC policy, and ownership of a car, while also observing the lack of documentary support for his claimed expenses, such as rent or car EMI. It is further contended that the learned Family Court has rightly appreciated the financial hardship of the respondent-wife, who is only 12th pass, and unemployed, and that the petitioner-husband, being financially



sound, is legally and morally bound to maintain his wife. Therefore, it is prayed on behalf of the respondent that the present petition be dismissed.

7. This Court has **heard** arguments addressed on behalf of both the parties and has given careful consideration to the record and the impugned judgment.

8. Having perused the record, this Court finds that the learned Family Court has meticulously and thoroughly examined the evidence led by both the parties. It was rightly concluded that the petitioner-husband had failed to produce any positive evidence to rebut or disprove the allegations made by the respondent-wife regarding acts of cruelty inflicted upon her.

9. The learned Family Court further took into account the testimony of PW-2, the respondent-wife's mother, who deposed that she had received phone calls from neighbours residing near the matrimonial home, informing her that the respondent was being beaten by the petitioner.

10. Therefore, the learned Family Court had committed no error in reaching a conclusion, based on the evidence led by the respondent-wife regarding cruelty committed upon her, coupled with the fact that there was total absence of any effort on the part of the petitioner-husband to seek restitution of conjugal rights. The learned Trial Court had rightly noted that despite the respondent-wife residing in the



matrimonial home, it was the husband who had chosen to live separately. Thus, the learned Family Court was justified in holding that she was residing separately from the husband for justified reasons.

11. With respect to the financial status of the respondent-wife, the learned Family Court did not commit any error while reaching a conclusion that she had studied only upto 12th standard and had no independent source of income or property. It was established that she was dependent on her family to meet her own expenses and those of the children, as she had received no financial support from the petitioner-husband. The petitioner-husband has also failed to establish that the respondent-wife had any income or earnings from any other source. Thus, the learned Family Court was justified in concluding that the respondent-wife was unable to maintain herself.

12. As regards the quantum of maintenance, the learned Family Court has given well-reasoned finding *qua* Issue No. 2, after detailed consideration of the affidavits of assets and liabilities filed by both the parties. It was specifically noted that the petitioner-husband had been employed as a Driver since 15.12.2008, and his basic monthly income was Rs. 35,300/-. He had placed on record his salary slip and, in his cross-examination, admitted that his current gross salary was Rs. 65,000/- per month, with a net take-home salary was Rs. 52,000/- after deductions. He is also an income tax payee. In this Court's opinion, the learned Family Court rightly relied on the petitioner-



husband's salary slip (Ex. RW-1/5), which reflected a gross monthly salary of Rs. 67,354/- and a net salary of Rs. 51,945/-. The Court also took into account his cross-examination, where he has admitted that he was not suffering from any health issues. It was further noted that though the petitioner himself claimed that he was having an LIC in his name as well as a car which he had purchased for Rs.3,50,000/- and he was making payments in this regard on monthly basis, he had failed to submit any documentary proof to establish that he was making any such payments or incurring such expenses. Moreover, although he claimed to be paying Rs. 10,500/- per month as rent, he did not furnish any rent agreement or rent receipts to support this claim.

13. While considering all these aspects, the learned Family Court reached the following conclusion:

“120. The respondent being able-bodied (nothing contrary has come on the record), he is obliged to earn by legitimate means and maintain his ex wife i.e. the petitioner (divorce granted during the trial of the case). Though the respondent had sufficient source of income and is able bodied, he has failed and neglected to maintain the petitioner. He does not have the responsibility of anyone else besides the petitioner.

121. It cannot be ignored that the respondent may need money for himself, for his travel to work/transportation, food, medication, toiletries, clothing, for his relations, for accommodation, social obligations, etc. as well as other miscellaneous expenses. More importantly, he requires money for the completion of the education of the two sons of the parties.

122. Also, it is clear that the petitioner requires food, clothing, medical facilities, social obligations, transportation and many



other miscellaneous requirements as per the social and financial status to which she was accustomed while living with the respondent in the matrimonial home. It is not in dispute that the petitioner is residing in the house of the mother of the respondent (matrimonial home) and the respondent had moved out from the same.

123. In the petition, the petitioner has claimed maintenance of Rupees Fifteen Thousand only (Rs.15,000/-) per month. It is income of the respondent which is to be considered (and not maintenance claimed by the petitioner nor the monthly expenses claimed by the petitioner i.e. Rupees Twenty Five Thousand only (Rs.15,000/-) per month) and in what manner the same can be apportioned and divided for the petitioner.

124. Here it is pertinent to mention that the petitioner has failed to furnish any explanation why she has not claimed maintenance from her children, who are major, and her son is working (as deposed in her cross examination). She has also not furnished any explanation why she has not claimed any alimony from the respondent when the divorce was granted.

125. The income of the respondent which is considered to be Rs.65,000/per month (as deposed by him in his cross examination) and Rs.67354.71 per month as per his salary slip (Ex. RW-115) needs to be divided so that the petitioner can get a maintenance to sustain herself and the respondent can also utilize the same towards his travel to work/transportation, food, societal exigencies, etc.

126. Towards the maintenance, an amount of Rupees Fifteen Thousand only (Rs.15,000/-) per month for the petitioner appears to be justified and appropriate and in the interest of justice.

127. As the present petition was filed on 03.07.2017, the petitioner is entitled to receive the maintenance of Rupees Fifteen Thousand only (Rs.15,000/-) per month from the respondent w.e.f. 03.07.2017 till she is legally entitled to receive the same.”

14. Further, it was also rightly noted by the learned Family Court that during the pendency of the trial, the marriage between the parties



had been dissolved by a decree of divorce, which was upheld by this Court and has attained finality and, therefore, no valid marriage subsists between the parties. The learned Family Court also took note of the fact that the respondent-wife had not claimed or received any alimony from the petitioner-husband when the divorce was granted.

15. Having examined the findings recorded in the impugned judgment, this Court finds no illegality or infirmity in the impugned judgment passed by the learned Family Court, as it was passed in accordance with law and considering the evidence recorded by it in detail.

16. As far as the enhancement of maintenance at the rate of 10%, after completion of every two years is concerned, this Court is of the opinion that the cost of living, inflation, etc. increases with every passing year, and thus, there is no infirmity with the direction of the learned Family Court in this regard.

17. In view of the foregoing discussion, this Court finds no illegality or perversity in the impugned judgment. The present revision petition is accordingly dismissed. Pending application, if any, also stands disposed of.

18. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 22, 2025/A