



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 6<sup>th</sup> December, 2025.  
Pronounced on: 6<sup>th</sup> January, 2026.  
Uploaded on: 6<sup>th</sup> January, 2026.

+ CRL.REV.P. 318/2022

SHAHEEN MALIK & ANR

.....Petitioners

Through: Mr. Meera Kaura Patel, Advocate  
(DHCLSC) along with Mr. Puru  
Pratap Singh, Mr. Z. Hussain,  
Advocates.

versus

MOHD. SARFARAZ

.....Respondent

Through: Appearance not given.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J.:**

1. This revision petition assails final judgment dated 23<sup>rd</sup> November, 2021, passed under Section 125 of the Code of Criminal Procedure, 1973,<sup>1</sup> whereby maintenance has been awarded in favour of the Petitioners. The challenge is confined to the quantum so awarded, and the Petitioners seek enhancement.

2. The facts leading to the present petition are as follows:

2.1 Petitioner No. 1 is the wife of the Respondent. The marriage was solemnised on 26<sup>th</sup> April, 2015 as per Muslim rites. Petitioner No. 2 is their minor daughter, born on 17<sup>th</sup> January, 2016, who is presently in the custody of Petitioner No. 1.

2.2 It is alleged that soon after the marriage, Petitioner No. 1 was subjected to cruelty and harassment on account of dowry demands, despite her family having incurred substantial wedding expenses and paid Rs. 4 lakhs in cash towards purchase of a car. Further demands, including Rs. 3 lakhs and an I-10 car, are alleged, leading to matrimonial discord.

2.3 Incidents of verbal and physical abuse are alleged to have occurred during cohabitation in 2015, following which Petitioner No. 1 approached the CAW Cell. On assurances extended by the Respondent, she resumed cohabitation on 16<sup>th</sup> September, 2015. She alleges that she was compelled to leave the matrimonial home with the infant on 28<sup>th</sup> February, 2016, and has been residing separately since then. Petitioner No. 1 lodged a further complaint before the CAW Cell on 16<sup>th</sup> July, 2016.

2.4 In December, 2016, Petitioner No. 1 instituted proceedings under Section 125 Cr.P.C. seeking maintenance for herself and the minor child. During pendency, interim maintenance of Rs. 4,800/- per month was directed.

2.5 Evidence was adduced by both parties. The Trial Court, by the impugned judgment, returned findings that Petitioner No. 1 had sufficient cause to reside separately and has no independent source of income.

2.6 On the question of means, the Trial Court held that the Respondent had neither made a candid disclosure of his earnings nor proved the income claimed by him. It was noted that the Respondent contracted a second marriage in March, 2018 and has a child from the said marriage. Proceeding on a reasonable estimation and treating the Respondent as a skilled worker, the Trial Court assessed his income at Rs. 19,473/- per month.

---

<sup>1</sup> “Cr.P.C.”



2.7 The Trial Court consequently awarded maintenance of Rs. 4,800/- per month from the date of institution of the petition till December, 2021. With effect from January, 2022, the amount was enhanced to Rs. 6,000/- per month, apportioned as Rs. 3,500/- per month to Petitioner No. 1 and Rs. 2,500/- per month to Petitioner No. 2. Litigation expenses of Rs. 10,000/- were also directed to be paid.

3. The Petitioners seek enhancement of the maintenance on the following grounds:

3.1. The relationship between the parties is not in dispute. Petitioner No. 2, the minor daughter, is in the care and custody of Petitioner No. 1. Petitioner No. 1 is a homemaker with no independent source of income or assets. The Petitioners are residing with and financially dependent on the parents of Petitioner No. 1.

3.2 The Respondent, on the other hand, has sufficient means and earning capacity. He is employed as a Service Engineer with Samsung and earns more than Rs. 30,000/- per month. He also has interests in immovable property, including a house at Samta Vihar, Mukundpur, Delhi. On this premise, it is urged that the Respondent has neglected and refused to maintain the Petitioners and the maintenance awarded does not reflect his true earning capacity.

3.3 The challenge is confined to the question of quantum as the maintenance of Rs. 6,000/- per month is inadequate to secure dignified sustenance for a non-earning wife and a minor child, particularly when the Trial Court itself assessed the Respondent's earning capacity as that of a skilled worker and quantified his income at Rs. 19,473/- per month.

3.4 Section 125 Cr.P.C. is a measure of social justice intended to prevent

destitution and vagrancy. The concept of “sustenance” under the provision does not contemplate bare subsistence. It must secure a standard of living consistent with dignity, keeping in view the status the wife would ordinarily have enjoyed in the matrimonial home. The provision must, therefore, be applied in a manner that affords real and effective protection to a wife and child against financial neglect. Reliance is placed on ***Bhuwan Mohan Singh v. Meena***.<sup>2</sup>

3.5 The Trial Court held that Petitioner No. 1 had sufficient cause to reside separately and has no independent source of income. The minor child’s right to maintenance is independent, and the assessment of quantum must account for ordinary, recurring expenses of upbringing, nutrition, healthcare, and education, which predictably increase with time.

3.6 The Respondent’s ability cannot be assessed solely on selective disclosures, but on a realistic appraisal of qualifications, work history, and earning capacity. Reliance is placed on ***Chaturbhuj v. Sita Bai***<sup>3</sup> to submit that an able-bodied person cannot avoid maintenance by taking a plea of unemployment or underemployment, and that where true income is concealed, the court is entitled to proceed on a realistic estimation.

3.7 The Respondent neither proved his claimed income nor made a candid financial disclosure, and the salary certificate relied upon by him was not proved in accordance with law. Once concealment is noticed, maintenance must bear a rational nexus to earning capacity. Reliance was placed on ***Rajnesh v. Neha***<sup>4</sup> to contend that fair adjudication of maintenance claims depends upon transparent and truthful financial disclosure, and evasive

---

<sup>2</sup> (2015) 6 SCC 353

<sup>3</sup> (2008) 2 SCC 316

disclosure should not lead to under-assessment of income.

3.8 The Respondent's second marriage and responsibilities arising therefrom cannot operate to the prejudice of the first wife and minor child. The obligation to maintain them is statutory, and a subsequent marriage cannot be a defence to an otherwise legitimate claim. Reliance in this regard is placed on *Haseena v Suhaib*.<sup>5</sup>

3.9 In light of the Trial Court's own assessment of Respondent's income at Rs. 19,473/- per month, award of Rs. 6,000/- per month for two dependents is manifestly disproportionate. The enhancement directed with effect from January, 2022 was itself premised on rise in the price index and change in circumstances. That very reasoning supports a further upward revision where the amount fixed does not meaningfully meet basic necessities.

3.10 Revisional interference is therefore warranted as the quantum fixed is inadequate and based on an unduly conservative approach, particularly in the face of findings that the Respondent did not make a candid disclosure of income. The Petitioners accordingly seek enhancement of maintenance to a realistic figure commensurate with the Respondent's earning capacity and the needs of the wife and minor child, with appropriate apportionment.

4. Counsel for the Respondent opposes the petition and makes the following submissions:

4.1 The petition is misconceived as it does not disclose any legal infirmity in the impugned judgment. The Trial Court proceeded on admitted facts, considered rival pleadings, income and expenditure affidavits, and the

---

<sup>4</sup> (2021) 2 SCC 324

<sup>5</sup> 2025 (1) KHC 543

evidence led by both sides, and fixed maintenance in a calibrated manner. The Petitioners, in effect, seek a re-appreciation of the same material and a fresh determination of quantum, which is beyond the limited scope of revisional jurisdiction.

4.2 The Respondent has been complying with the operative directions and has regularly paid maintenance of Rs. 6,000/- per month (Rs. 3,500/- to Petitioner No. 1 and Rs. 2,500/- to Petitioner No. 2). Such consistent compliance is a relevant consideration while examining the need for interference.

4.3 The Respondent has limited financial capacity and multiple dependents. He has contracted a second marriage and has two children from the said marriage, including a daughter born on 19<sup>th</sup> November, 2023, and is also required to support his aged and ailing parents. In this background, the maintenance fixed strikes a workable balance, and any further enhancement would cause undue hardship.

4.4 The Trial Court assessed the Respondent's earnings at Rs. 19,473/- per month on a notional basis. The Respondent is presently employed with Agmatel India Pvt. Ltd., Noida, earning Rs. 25,410/- per month. This amount is barely sufficient to meet the household expenses, after paying maintenance awarded to the Petitioners, his second wife, two minor children, and dependent parents. He is, therefore, not in a position to pay beyond the amount directed.

4.5 Multiple proceedings are pending between the parties, including FIR No. 438/2017 under Sections 498A/406/34 IPC and proceedings under the

Protection of Women from Domestic Violence Act, 2005<sup>6</sup> (Complaint Case No. 671/2018). The Trial Court was conscious of the overall dispute and passed the impugned order after considering the record. It is urged that overlapping monetary claims across proceedings should not result in duplication of relief.

4.6 The portrayal of the Respondent as a high-earning professional is inaccurate. He is 10<sup>th</sup> pass with an ITI qualification, has a modest work history, owns no movable or immovable property, and has no substantial bank balances.

4.7 The Trial Court has returned findings on the basis of material placed on record by both sides, including medical documents, and the impugned judgment reflects due consideration of the evidence and relevant factors. No misreading of evidence, material irregularity, or perversity has been demonstrated so as to warrant revisional interference.

### *Analysis and findings*

5. The relationship between the parties and the paternity of Petitioner No. 2 are admitted. The proceedings arise out of Section 125 Cr.P.C., a provision intended to provide a swift remedy against destitution and neglect. The jurisdiction is not a forum for a full-scale adjudication of matrimonial fault. The inquiry is confined to whether the claimant is entitled to maintenance, whether there has been neglect or refusal on the part of the spouse, and what quantum would secure dignified sustenance, having regard to the needs of the claimants and the means and earning capacity of the Respondent.

6. The impugned judgment returns findings on the foundational

---

<sup>6</sup> “DV Act”

requirements in favour of the Petitioners. It holds that Petitioner No. 1 had sufficient cause to reside separately and has no independent source of income. These findings have not been shown to be perverse. The minor child's entitlement, in any event, flows from the statute itself. The controversy in the present revision is, therefore, confined to the question of quantum and the date from which enhancement should operate.

7. Revisional jurisdiction is not to be exercised as a fresh trial. However, where the quantum fixed is manifestly inadequate, or where the assessment of "means" rests on a legally erroneous approach, interference is warranted so that Section 125 does not become a paper remedy. The Supreme Court has repeatedly reminded that "sustenance" under Section 125 is not bare survival and the provision must be applied to afford protection to wives and children, from financial abandonment. The question, therefore, is whether the award of Rs. 6,000/- per month for both claimants, even after January, 2022, satisfies that standard on the facts recorded.

*Assessment of income and concealment*

8. The record shows that Petitioner No. 1 alleged at the threshold that the Respondent was earning around Rs. 30,000/- per month. In support of the Respondent's vocation and earning capacity, reliance was placed on material such as the Respondent's Facebook profile reflecting an "engineer" role at a Samsung service centre, photographs suggesting workplace presence and professional certification, and allied circumstances. The Respondent, on the other hand, projected modest earnings and, subsequently, pleaded unemployment.

9. The Respondent produced a salary certificate marked as Mark A, purportedly showing employment with Aditya Infocom at a salary of Rs.



9,000/- per month. The Trial Court declined to rely upon the said document since it was not proved in accordance with law. The Respondent also relied upon resignation-related correspondence, including an email dated 27<sup>th</sup> January, 2020 (Ex. RW1/1) tendering resignation from B2X with effect from 17<sup>th</sup> January, 2020. The Trial Court recorded that no reason was assigned for leaving the employment.

10. Two aspects of the record are significant. First, although the Respondent filed income and expenditure affidavits, he did not produce the bank statements of the accounts he admittedly operated, including the SBI account disclosed in the affidavit and the Kotak Mahindra Bank account referred to during cross-examination. Second, the Petitioner's assertions on the Respondent's vocation and earning capacity were left uncontroverted.

11. In maintenance proceedings, the best evidence of income lies with the earning spouse. True income, salary receipts, bank credits, and the overall monetary footprint of employment are matters within the Respondent's knowledge and control. This position is reinforced by Section 106 of the Indian Evidence Act, which places the burden of proving facts that are especially within the knowledge of a person, onto that person.

12. In this regard, *Rajnesh v. Neha* underscores that accurate financial disclosure is critical for fair determination of maintenance claims.<sup>7</sup> Evasive disclosure cannot be permitted to translate into an under-assessment of liability. Where direct proof is withheld, a maintenance court is entitled to draw reasonable inferences from the Respondent's work history, qualifications, and surrounding indicators of lifestyle. The impugned judgment proceeds on this very approach. Having found that the Respondent

neither proved the income asserted by him nor made a candid disclosure of his true earnings, the Trial Court assessed income by reasonable estimation and treated him as a skilled worker. In doing so, it recorded that the Respondent is able-bodied, holds an ITI qualification, has work experience including a supervisory role, and is the registered owner of a Wagon R car.

13. The difficulty, however, lies not in the decision to estimate income, but in the consequence that follows. If the Respondent's earning capacity is assessed at Rs. 19,473/- per month (as recorded by the Trial Court), the maintenance fixed for two dependents at Rs. 6,000/- per month does not appear to bear a rational nexus to his assessed earning capacity.

*Needs of the Petitioners*

14. The Petitioners pleaded monthly expenditure for the household and separate expenses for the child, including school-related payments and incidental educational costs. The Court must acknowledge that a growing child's expenses are never static. Even a conservative assessment must account for routine schooling, nutrition, clothing, healthcare, and transport, all of which predictably rise with time. The impugned judgment itself recognises increase in the price index as a basis for enhancement with effect from January, 2022. That reasoning is sound. The remaining question is whether the enhancement granted is adequate.

*Respondent's liabilities and second family*

15. The Respondent argues that he has remarried and has children from the second marriage, along with aged and ailing parents. This contention is relevant only to the limited extent that it reflects overall liabilities. It cannot be a defence in principle. The statutory obligation towards the first wife and

---

<sup>7</sup> *Parvin Kumar Jain v Anju Jain*, 2024 INSC 961

minor child does not recede because the Respondent chose to undertake additional responsibilities through a subsequent marriage. However, the husband's subsequent marriage cannot become the basis to deny or dilute the statutory right of maintenance of the first wife.<sup>8</sup> In other words, the obligation towards the second wife cannot operate to the prejudice of the first wife.

16. The Respondent also relies on compliance with the directions through execution proceedings. Such compliance is expected and cannot, by itself, answer the question whether the amount awarded meets the legal standard of adequacy and dignified sustenance. An award that is manifestly inadequate does not become adequate merely because it is complied with.

*Revisional correction and the appropriate quantum*

17. The Petitioners have argued that the Trial Court ought to have drawn an adverse inference under Section 114(g) of the Indian Evidence Act because the Respondent withheld bank statements and other primary financial material. This submission has substance. Where relevant records lie within a party's power and possession are withheld without adequate explanation, the court is entitled to presume that their production would have gone against that party.<sup>9</sup> Equally, a maintenance court is not bound to accept a narrative of unemployment from an able-bodied and technically trained person, especially where resignation from employment is unexplained and the record reflects work capacity and work history.<sup>10</sup> On that approach, the question returns to proportionality of the maintenance awarded.

---

<sup>8</sup> *Haseena v Suhaib*, 2025 (1) KHC 543; also see *Begum Subani v A.M. Abdul Gafoor* (1987) 2 SCC 285

<sup>9</sup> *Jasbir Kaur Sehgal v. District Judge, Dehradun & Ors.* (1997) 7 SCC 7

18. Petitioner No. 1 is not working and does not have any independent source of income. As per her affidavit, she does not own any movable or immovable asset. The Respondent has both a moral and statutory obligation to maintain his wife and children. Thus, even accepting the Trial Court's income figure of Rs. 19,473/- per month from January, 2022, the award of Rs. 6,000/- per month for the wife and minor child is too modest to satisfy the statutory object. The provision is not satisfied by award of maintenance that keeps the Petitioners at the brink of deprivation. It obliges the court to fix a sum that enables the wife and child to live with dignity, having regard to their reasonable needs and the Respondent's earning capacity. On the facts recorded, the amount of Rs. 6,000/- does not reasonably accommodate the ordinary costs of a minor child's upbringing, including schooling and allied expenses, and does not provide Petitioner No. 1 an allowance consistent with dignified sustenance in a city such as Delhi.

19. Revisional correction is, therefore, warranted, not by embarking upon a fresh inquiry, but by addressing a manifest inadequacy in quantum on the basis of findings already returned by the Trial Court, namely: (i) the Respondent's concealment and incomplete disclosure, (ii) his qualifications and earning capacity, (iii) the Trial Court's assessment of the Respondent's income at Rs. 19,473/- per month by treating him as a skilled worker and (iv) the demonstrated needs of a non-earning wife and a minor child.

20. Having regard to the principles enunciated in *Rajnesh v. Neha*, this Court is of the opinion that maintenance of Rs. 9,000/- per month with effect from January, 2022 would be fair, reasonable, and proportionate. Out of this amount, Rs. 5,000/- shall be payable to Petitioner No. 1 and Rs. 4,000/- to

---

<sup>10</sup> *Chaturbhuj v. Sita Bai* (2008) 2 SCC 316



Petitioner No. 2. The maintenance awarded for the period up to December, 2021 remains undisturbed.

21. It is clarified that amounts awarded in other proceedings, as directed in the impugned judgment, shall continue to operate in accordance with law. Any specific grievance of double recovery may be raised at the appropriate stage on proof of payments and subsisting orders.

22. The revision petition is allowed to the limited extent indicated above.

**SANJEEV NARULA, J**

**JANUARY 06, 2026**

*nk*