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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 2436/2018 & CRL.M.A. 8682/2018**

MANEESH TRIVEDI

.....Petitioner

Through: Petitioner in person

versus

PALLAVI TRIVEDI

.....Respondent

Through: Mr. Raghavendra Mohan Bajaj, Ms.
Garima Bajaj, Mr. Kumar Karan,
Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

22.04.2025

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1. The present petition under Section 482 of the Code of Criminal Procedure, 1973¹ is directed against the order dated 21st April, 2018, passed by the Court of ASJ-03 (East), Karkardooma Courts, Delhi in Criminal Appeal No. 57/2017, titled “*Maneesh Trivedi v. Pallavi Trivedi*”.

2. By the impugned order, the Appellate Court dismissed the Petitioner's challenge to the interim maintenance order dated 11th January, 2017 passed by the Metropolitan Magistrate, Karkardooma Courts, awarding ₹50,000 per month to the Respondent and her minor son.

3. The relevant factual background, as set out in the petition, is as follows:

3.1 The Petitioner and the Respondent got married on 09th February,

¹ “CrPC”.



2010. From this marriage, a male child, Master Tejas, was born.

3.2 Over time, the relationship between the parties deteriorated, and they began living separately. Following the separation, the Respondent initiated proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005,² before the Metropolitan Magistrate, Karkardooma, New Delhi, seeking *inter alia* interim maintenance for herself and their son.

3.3 Upon consideration of the material placed on record, the Trial Court passed a detailed order dated 11th January, 2017, extracted below:

“An application is moved on behalf of the respondent whereby submitting that same Alteration has been done in the court file. Copy of the same is supplied. The application is kept for consideration later on.

The order of the Hon’ble High Court of Delhi dated 17/10/2015 is received whereby the present court is directed to expedite the proceeding in this case. As the interim relief has not been decided in the present matter till date. Arguments are heard on the same.

It is objected by Ld. Counsel for respondent that there is no interim application on record but after perusal of the file. It is revealed that there is prayer for interim relief if the same required according to the circumstance. Therefore, argument are heard on Interim application which is being prayed by the petitioner only for maintenance.

As per the contents of the Petition, the Petitioner got married with respondent no.1 on 09/02/2010 according to Hindu rites and customs and after the marriage, the petitioner was brought to the matrimonial home at home at Kanpur where after some time, respondent no. 1 left for London to join his duties And she joined him on 23/10/2010 but the respondent no.1 used to mistreat her and she was directed to obey his order just to please him. It is further alleged that she tolerated all the atrocities of respondent. As she also stayed with rest of the respondents during pregnancy. The other allegation is also levelled which are not required to discussed in detail. At this stage. In addition it is submitted that on date respondent no.1 is earning a very handsome salary of Rs. 1,80,000/- and she herself is having no source of Income and she has to look after the minor child who is only- about 6 years of age.

On the basis of these submission, the petitioner is praying for interim maintence for sum of Rs. 50,000/- p.m. for herself alongwith Rs. 25,000/- In favour af her minor son.

In reply to the present petition respondent has denied all the

² “DV Act”



averments made by the petitioner. As the matter is at the initial stage and the evidence has not been led by any of the parties, only a prima facie case has to be looked into on the basis of, the material on records. Both the petitioner and R-1 have also filed their affidavits of income and asset. During the arguments, It is submitted on behalf of respondent No.1 that the present petition is not maintainable as there is no territorial jurisdiction of the present court. because neither the marriage nor any alleged incident took place within the jurisdiction of Delhi as she was not residing at Delhi as Delhi at the time of filing of present petition. It is submitted that the petitioner was directed by the present court to furnish her documents with respect to her residence at Delhi and thereafter 5:23 PM 4/22/2025 she furnished rent agreement dated 10/10/2015 while the case was filed on 17/11/2014 and even all her documents which have been filed on record pertain to the latter period to filing of the petition so the petitioner is not entitled for any relief.

With respect to interim maintenance. It is submitted on behalf of the respondent no. 1 that he presently working as technical specialist in fidelity investment Bank and earning around Rs. 1,50,000/- p.m. it is also submitted that her petition u/s 125 of Cr.p.c has already been dismissed in the court at Kanpur and she is herself capable of earning and she was earning 19,000/- p.m. as per her own income affidavit and that she shown her total expenditure to be Rs One Lakh without explaining as to how she is arranging that amount in the absence of any income.

Ld.counsel for the respondent has also quoted citation Rupali Gupta Vs. Rajat Gupta (Delhi (D.B) LAW finder Dock id # 788794 whereby submitting that when the wife is qualified and capable of earning. She is not entitled for any relief against the husband.

In reply to the rebuttal to the contentions of respondent, it is submitted on behalf of the petitioner that although previously, petitioner was working but in order to take care of the minor child. She was constrained to leave the job and moreover she was earning only meager amount in comparison to the Income of respondent no.1 therefore he under an obligation to maintain the petitioner and her minor Son.

In view of the whole facts and circumstances of the case this is to be considered that respondent no.1 offered the petitioner to join his company at the matrimonial house but she refused for the same while giving her own excuses and explanation which can be decided only during the trial.

Secondly address mentioned in the petition is similar to the address as mentioned in the rent agreement filed by her and other documents are also filed W.r.t. the said given address not even respondent has filed any document on record to rebut her assumption. Therefore the issue of territorial jurisdiction shall be decided during trial.

Therefore on prima facie basis, although the wife is capable of earning but on date she is jobless and she is also bearing responsibility



of minor child of bringing him up all alone without any support of her husband, she cannot be presumed to step out from her house for earning the livelihood for her self and her son when her husband is earning handsome salary. As marriage and paternity is admitted and the income for sum of Rs. 1,50,000/- p.m. is also admitted by the respondent no. 1 the application is allowed and the respondent no.1 is directed to make the payment for a sum of Rs. 50,000/- p.m. in total in favour of the petitioner and her minor child w.e.f. filing of present petitioner i.e. 20/11/2014 to the petitioner till the disposal of the main petition on merits.

Regular payment be made either in cash on receipt or in the bank account of petitioner by 10% of every month starting from February 2017. Arrears to be cleared within six months, it is clarified that if any amount has been received by petitioner towards maintenance in any other matter, same shall be accordingly adjusted. Nothing herein stated shall tantamount to the merits of the case. Copy of order be given dasti to both the parties. Put up for PE on 02/02/2017. Advance copy of the evidence affidavit be supplied to opposite party.”

3.4 Aggrieved, the Petitioner preferred an appeal against the aforementioned order. The Appellate Court upheld the decision of the Trial Court, and dismissed the appeal by the impugned order dated 21st April, 2018, which reads as follows:

“5. Appellant while assailing the impugned order by preferring this criminal appeal took pleas that petition filed by the petitioner has no territorial jurisdiction of said court and ignored the material facts. Ld. counsel for appellant prayed for setting aside the impugned order dated 11.01.2017.

6. Per contra, Id. counsel for the respondent took preliminary objection to the present appeal that same is not filed under proper provisions.

7. For PWDV Act, there is special provision for preferring the appeal against any impugned order. It is also pertinent to mention here that only appeal can be filed under the Special statute and no revision can be filed against any order passed under the said Act. Appellant has preferred the present appeal under Sec. 397 CrPC r/w Sec 399 of CrPC. There is provision to file any appeal/revision under these provisions of CrPC against any order passed under PWDV Act. Ld. counsel for the appellant sought permission to amend the appeal but vide order dated 07.04.2018 said request has been declined. As such, appeal preferred by appellant is not under correct provisions and same is liable to be dismissed on this ground alone. However, it is to be mentioned herein that court has also to see that the matter should not be rejected only on mentioning



incorrect/wrong provisions and be heard on merits to part impartial justice to the parties.

8. *There is no denial to the factum of both parties concerned, birth of male child from this wedlock and salary as mentioned by Ld. trial court. There is also no dispute to the fact that appellant herein did not pay any penny to the respondent till date pursuance to the impugned order and preferred this appeal only.*

9. *From to time, Hon'ble Apex Court observed in various cases that wives should not be denied maintenance only on the ground that she is qualified. (Ref.:Sanjay Bhardwaj & Ors. Vs. The State & Anr., Crl. M.C. No. 491/2009). Besides the above, Chaturbhuj Vs. Sita Bai (2008 Crl. L.J. 727), the Hon'ble Supreme Court has held as follows:*

“The object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support. The phrase ‘unable to maintain herself in the instant case would mean that means available to the deserted wife while she was living with her husband and would not take within itself the efforts made by the wife after desertion to survive somehow.... falls within constitutional sweep of Article 15 (3) reinforced by Article 39 of the Constitution of India, 1950. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in Savitaben Somabhai Bhatiya Vs. State of Gujrat and Ors. (2005(2) Supreme 503. ... It can also be not said that the wife has been capable of earning but she was not making an effort to earn. Whether the deserted wife was unable to maintain herself, has to [be decided on the basis of the material placed on record. Where the personal income of the wife is insufficient she can claim maintenance The test is whether the wife is in a position to maintain herself in the way she was used to in the place of her husband. In Bhagwan Vs. Kamla Devi (AIR 1975 SC 83) it was observed that the wife should be in a position to maintain standard of living which is neither luxurious nor penurious but what is consistent with the status of a family.”

10. *In view of the sky rocketing prices of these days, amount awarded by Id. trial is not improper. Ld. trial has already discussed the matter elaborately This court is fully agreed with the said order. Moreover, the impugned order is only for interim maintenance and appellant raised his*



pleas during course of final disposal of the case.

11. In view of the overall circumstances, court is of the view that impugned order does not suffer from any illegality, perversity or irregularity. Accordingly, present appeal found no merits and same is hereby dismissed.

12. Parties are directed to appear before Id. trial court on 25.04.2018. Appellant is also directed to clear the dues in terms of order dated 11.01.2017.

13. Copy of this judgment be placed in TCR and same be i' sent to Id. trial court concerned for information. 14. Appeal file be consigned to Record Room."

3.5 Aggrieved by the dismissal of the appeal, the Petitioner has now approached this Court under Section 482 Cr.P.C., seeking to quash the impugned order dated 21st April, 2018.

4. In support of the petition, the Petitioner has raised the following grounds:

4.1 The Respondent, an engineer by profession, has been working regularly since November, 2006. Her income affidavit and biodata on record demonstrate that she is financially capable of maintaining herself and therefore not entitled to claim maintenance under Section 20 of the DV Act.

4.2 The Respondent had filed a custody petition before the Principal Judge, Family Court, Karkardooma, which indicates that the child is not presently residing with her. This contention is corroborated by the child's school records, which reflect his residence in Ghaziabad, whereas the respondent resides in Delhi. In view of the fact that the child is not in the custody of the respondent, interim maintenance for the child is not sustainable. It was further pointed out that the Petitioner had also filed a custody petition in respect of the child.

4.3 Respondent, in her income affidavit dated 18th February, 2015, declared monthly expenses amounting to ₹1.20 lakh despite disclosing a



monthly income of only ₹20,000, without offering any explanation as to how she met the shortfall. Such unexplained figures cast doubt on the veracity of her claim and undermine the *bona fides* of her maintenance petition.

5. The Court has duly considered the aforementioned contentions but remains unpersuaded. At the outset, it must be emphasized that the order dated 11th January, 2017, addresses merely an interim arrangement of maintenance, which is, by its very nature, a temporary arrangement meant to operate during the pendency of proceedings. Such orders are provisional and open to variation upon a comprehensive evaluation of evidence at the final stage.

6. In determining the quantum of interim maintenance, the Trial Court relied upon the income affidavits and supporting documents furnished by both parties. On the Petitioner's own showing, he was employed as a Technical Specialist with Fidelity Investment Bank and earning approximately ₹1.50 lakh per month. The Respondent, although professionally qualified, was unemployed at the relevant time and stated to be the sole caregiver for the minor child. Taking into account the material on record, including the respective financial disclosures and the needs of the child, the Trial Court awarded interim maintenance of ₹50,000 per month to the Respondent and her son. This finding was affirmed by the Appellate Court upon a reasoned consideration of the record.

7. The Petitioner's assertion that the Respondent is gainfully employed does not find support in the documents relied upon by him. On the contrary, her biodata reflects that her last known employment ceased in July 2015. As regards the claim that the child is not in the Respondent's custody, the Respondent has clarified, by way of a counter-affidavit, that the child resides



with her in Delhi, and that the school records referred to by the Petitioner reflect the address of the Respondent's parent's house, which has since been vacated. These explanations have not been refuted by any cogent material. In the circumstances, the grounds urged by the Petitioner do not dislodge the concurrent findings of fact recorded by the courts below.

8. At this stage, the Court is only concerned with the legality of the interim maintenance order. The Petitioner's assertion regarding his alleged unemployment in recent years, and the Respondent's counter-allegation that he has sold immovable property, are matters that may be relevant in considering a modification of the maintenance amount. These factual developments, however, fall outside the limited scope of interference under Section 482 Cr.P.C. It is always open for either party to move the Trial Court by instituting an application seeking variation of the interim order, which shall be decided independently and in accordance with law.

9. It bears reiteration that interim maintenance is intended as a stopgap arrangement to ensure financial subsistence and basic security during the pendency of proceedings. It neither concludes the rights of the parties nor prevents re-evaluation at the final stage. The impugned order does not suffer from any legal infirmity or perversity warranting interference in exercise of the Court's inherent jurisdiction.

10. In view of the foregoing, the present petition is disposed of along with pending applications.

SANJEEV NARULA, J

APRIL 22, 2025/ab