



2025:DHC:6350



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 24.07.2025*+ **CRL.REV.P.(MAT.) 49/2024 & CRL.M.A. 29408-09/2024,**
CRL.M.A. 2543-44/2025

.....Petitioner

Through: Mr. Sumeet Beniwal and Mr.
Tushar Rohmetra, Advocates

versus



.....Respondent

Through: Mr. Dharendra Singh and Mr.
Navdeep Mavi, Advocates**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J (ORAL)**

1. By way of the present revision petition, the revisionist seeks to set aside the impugned order dated 20.05.2024 passed by the learned Judge, Family Court, North District, Rohini Courts, Delhi, in M.T. Case No. 522/2023 titled *Ms. Priyanka vs. Mr. Sagar Phogat*, whereby the learned Family Court directed the revisionist to pay a sum of ₹50,000/- per month as interim maintenance to the respondent and her minor child.

2. Briefly stated, the facts of the present case are that the revisionist, namely Sagar Phogat, had married the respondent, Priyanka, on 26.05.2017 according to Hindu rites and ceremonies at



Ramher Vatika, Prahladpur Banger, Delhi. The marriage had been duly consummated, and a male child had been born out of the said wedlock on 23.08.2019. Thereafter, the respondent had filed a petition under Section 125 of Cr.P.C., bearing M.T. Case No. 522/2023, on 06.10.2023, along with an application seeking interim maintenance. It had been alleged by the respondent that she had been subjected to cruelty and harassment by the revisionist and his family members. She had further asserted that the revisionist was earning a rental income of more than ₹4,00,000/- per month and that an amount of ₹2,00,000/- per month was required for the maintenance of herself and the minor child. By the impugned order dated 20.05.2024, the learned Trial Court had directed the revisionist to pay a sum of ₹50,000/- per month as interim maintenance to the respondent and her minor child, from the date of filing of the petition, until further orders or during the pendency of the petition. Being aggrieved by the said order, the revisionist has preferred the present revision petition.

3. The learned counsel for the petitioner argues that the impugned order dated 20.05.2024 has been passed without proper appreciation of the facts and is based solely on the respondent's pleadings and income affidavit, without affording the petitioner a fair opportunity to present his case or respond adequately. It is contended that the amount of ₹50,000/- awarded as interim maintenance is highly unrealistic and beyond the petitioner's financial capacity, especially considering that he is currently unemployed and dependent on his ailing mother, who is suffering from stage-three brain tumor, for



sustenance. It is further submitted that the learned Family Court erred in assuming a notional income of ₹1,00,000/- per month based on ancestral properties, despite the fact that such properties are shared among several family members, generate limited rental income, and the rent is received in the name of the petitioner's mother. The learned counsel also highlights that the respondent, being highly qualified and self-sufficient, is capable of maintaining herself and has suppressed relevant financial details in her income affidavit, including an undisclosed bank account. Moreover, on the date of the impugned order, the petitioner was represented by a proxy counsel due to the ill health of his main counsel, and a request for adjournment was unjustly denied, resulting in serious prejudice. It is thus argued that the impugned order is vitiated for having been passed in violation of the principles of natural justice and on an erroneous assessment of the petitioner's income and liabilities.

4. The learned counsel appearing for the State, on the other hand, argues that the learned Family Court has passed a well-reasoned and justified order after considering the material placed on record, including the income affidavits of both parties. It is submitted that the amount of ₹50,000/- per month awarded as interim maintenance is neither excessive nor arbitrary, keeping in view the needs of the respondent and the minor child, and the standard of living they were accustomed to. The learned counsel further contends that the petitioner had ample opportunity to file his reply and supporting documents but failed to do so within the time granted, and merely



sought adjournments without any cogent reason. It is argued that the petitioner's claims of unemployment and financial hardship are unsubstantiated, particularly in light of the admitted existence of ancestral properties generating rental income. Moreover, the obligation to maintain the wife and minor child is a legal and moral duty of the husband, which cannot be evaded on the pretext of income being received by other family members. It is also submitted that any alleged suppression of facts by the respondent, if at all, can be established only during trial, and does not warrant interference at this stage. Therefore, the learned APP submits that there is no illegality or perversity in the impugned order calling for interference by this Court.

5. This Court has **heard** arguments addressed by learned counsel for the petitioner and learned APP for the state, and has perused the material on record.

6. The admitted facts of the present case are that the marriage between the revisionist and the respondent was solemnized on 26.05.2017 according to Hindu rites and ceremonies, and one male child was born from the said wedlock on 23.08.2019. It is also not in dispute that the respondent is presently living separately from the revisionist and has the custody of the minor child. The petition under Section 125 Cr.P.C. was filed by the respondent on 06.10.2023 seeking maintenance for herself and the minor child, along with an application for interim maintenance. The learned Family Court, vide the impugned order dated 20.05.2024, after considering the facts on



record, directed the revisionist to pay a sum of ₹50,000/- per month as interim maintenance to the respondent and her minor son.

7. It is settled law that the purpose of granting interim maintenance under Section 125 of Cr.P.C. is to ensure that a spouse, who is unable to maintain herself and is dependent, is not left in destitution or vagrancy during the pendency of proceedings. The provision is a social justice measure and must be interpreted in light of its underlying object – to prevent financial hardship and starvation of the neglected spouse and children.

8. This Court has perused the income affidavit filed by the revisionist before the learned Family Court. It is noted that although the revisionist has denied the allegations of cruelty and has taken the stand that he is not earning a substantial income, no cogent documentary evidence has been placed on record to substantiate the claim of low income. On the contrary, the respondent-wife had, in her application and affidavit, alleged that the revisionist earns over ₹4 lakhs per month from rental income and is financially well-off. In response, the revisionist merely offered a bare denial, which cannot be accepted at face value, especially when he has not filed income tax returns or bank statements to corroborate his version.

9. At the stage of interim maintenance, a detailed trial or adjudication on the actual income is neither warranted nor possible. A prima facie assessment is to be made on the basis of pleadings, affidavits, and such material as may be available on record. The



learned Family Court, in the present case, appears to have undertaken a balanced consideration of the circumstances of both parties and has awarded an amount which, on the face of it, does not appear to be excessive or disproportionate.

10. This Court also notes that the minor child, who is about 5 years old, is presently in the care and custody of the respondent and his daily needs including food, clothing, education, healthcare, and other expenses are being borne solely by the respondent. The revisionist, as the biological father, cannot abdicate his legal and moral responsibility to maintain his minor child. The argument advanced on behalf of the revisionist that the respondent herself is qualified and capable of earning does not absolve the husband from his statutory duty under Section 125 Cr.P.C., particularly in respect of the child.

11. This Court is of the view that interim maintenance under Section 125 Cr.P.C. is meant to provide immediate relief to a spouse and minor children who are otherwise unable to maintain themselves. While the right to fair opportunity and adherence to natural justice are essential, it is equally true that technical delays or procedural lapses cannot defeat the very purpose of the provision.

12. As regards the petitioner's plea of unemployment, it is settled law that an able-bodied person cannot shirk his responsibility to maintain his wife and children. The Hon'ble Supreme Court in ***Shamima Farooqui v. Shahid Khan***: (2015) 5 SCC 705, observed:

" 14..... Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or



his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law. If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right. This being the position in law, it is the obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain the wife due to financial constraints as long as he is capable of earning."

13. In *Anju Garg and Another v. Deepak Kumar Garg: 2022 SCC OnLine SC 1314*, the Hon'ble Supreme Court reiterated that it is the sacrosanct duty of the husband to provide financial support to his wife and children and that excuses regarding unemployment or reduced income cannot be accepted in the absence of compelling proof.

14. It is not in dispute that the petitioner has admitted in his affidavit to having a share in certain ancestral properties from which rental income is derived. Even if the petitioner contends that the income is received by his mother and that his share is minimal, it is also established that he resides in a joint family setup and is not completely devoid of means. Moreover, the petitioner himself admits that the properties under reference are generating rental income of ₹73,000/- per month.

15. The claim of the petitioner that the respondent is earning ₹20,000/- per month has not been substantiated by any material placed on record. On the contrary, the respondent has asserted that she has been meeting expenses through loans or borrowings, and no



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concrete evidence has been brought to rebut the same.

16. This Court finds no reason to interfere with the interim maintenance amount of ₹50,000/- per month awarded by the learned Family Court, which appears to be proportionate to the standard of living of the parties and the needs of the minor child. The petitioner is at liberty to place on record any additional material, including changes in financial circumstances, before the learned Family Court at the appropriate stage.

17. In view of the above, this Court finds no illegality, perversity, or jurisdictional error in the impugned order dated 20.05.2024 warranting interference under the revisional jurisdiction of this Court. The revision petition alongwith pending applications, if any, is accordingly dismissed.

18. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 24, 2025/vc