



2025:DHC:7930



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

% *Judgment delivered on: 10.09.2025*

+ **CRL.REV. P. 395/2022**

SMT.Petitioners

Through: Mr. M.R. Chanchal, Advocate

versus

THE STATE & ANR.Respondents

Through: Mr. Naresh Kumar Chahar,
APP for the State with Ms.
Puja Mann and Mr. Vipin
Kumar Yadav, Advs.
Mr. Nischaya Nigam and Mr.
Akshay Handa, Advocates for
R-2

CRL. REV. P. 428 OF 2024 & CRL.M.A.9849/2024

NISHANT TYAGI @ JOHNEYPetitioner

Through: Mr. Nischaya Nigam and Mr.
Akshay Handa, Advocates

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Naresh Kumar Chahar,
APP for the State with Ms.
Puja Mann and Mr. Vipin
Kumar Yadav, Advs

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA



JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. By way of this judgment, this Court shall be disposing of two connected criminal revision petitions preferred by the parties who are legally wedded to each other. They both seek setting aside of the judgment dated 04.05.2022 [hereafter '*impugned judgment*'] passed by the learned Principal Judge, Family Court, East District, Karkardooma Court, Delhi [hereafter '*Family Court*'] in M.T. No. 550/2018 titled '*Geeta & Anr. vs. Nishant Tyagi @ Johnney*'.

2. Briefly stated, the facts of the present case are that on 27.11.2009, the marriage of the parties was solemnised as per Hindu rites and ceremonies, wherefrom a child was born to them on 28.08.2010. Allegedly, ever since the inception of the marriage, the wife had been subjected to harassment – physical, mental, and financial – at the hands of the husband and her in-laws. In light of the same, she allegedly had to move out of the matrimonial house and depend on her mother for sustenance. She thereafter instituted a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] claiming maintenance of Rs. 30,000/- (Rs. 20,000/- for herself and Rs. 10,000/- for her minor child) from her husband, asserting that he was working as a Senior Electrician and earning about Rs. 55,000/- per month.

3. The said petition came to be partly allowed by the learned Family Court in respect of the minor child, and the husband was directed to pay Rs. 16,000/- per month for the minor child until her



marriage or until she is in a position to maintain herself. However, the wife was denied maintenance. The observations of the learned Family Court in the impugned judgment are as under:

6. In evidence petitioner has filed affidavit on the lines of petition and she has proved copy of FIR No. 480/2016 as Mark-A, rent agreement as Ex. PW- 1/1, school fee receipt as Ex. PW-1/2(Colly), bank passbook as Ex. PW-1/3 and Adhaar card as Ex. PW-1/4. This witness was duly cross examined by. Ld. Counsel for the respondent. On the other hand, respondent examined himself as RW-1 and proved the copy of Adhaar Card as Ex. RW-1/1 and copy of salary slip as Ex. RW-1/2 RW-1 is duly cross examined by Ld. Counsel for the petitioner.

7. In the cross examination PW-1 admitted that she is working in Education Department at Khekhra Bhagpat at present on temporary basis. She has stated that she has annexed her salary certificate with the case file. PW-1 has also stated that at present her monthly salary is Rs. 10,000/- She has stated that she is residing on rent and earlier she was paying rent of Rs. 4500/- per month and now she is paying rent @ Rs.5000/- per month. She further stated that school fees of her child is Rs. 1400/- per month. During cross Examination PW-1 has admitted her salary slip which is proved on record as Ex. PW-1/RX-1. Petitioner no. 1 has not placed on record her recent salary slip to show that she is only earning Rs. 10,000/- per month.

8. It is the case of the petitioner no. 1 that she was working as a teacher and due to the guidelines of the Hon'ble Supreme Court of India, the service of petitioner no. I was terminated on 25.07.2017 and after that she is working as temporary teacher in U.P. School.

Petitioner during cross examination admitted the documents Ex. PW-1/RX-1 which is salary slip of December, 2016. On this salary slip it is mentioned that a sum of Rs. 33,052/- was being received as salary by the petitioner no. 1. The petitioner no. 1 has placed on record judgment of Hon'ble Supreme Court of India vide which her service was terminated. No suggestion was given by the respondent to the petitioner that her service was not terminated as per judgment of Hon'ble



Supreme Court of India. Moreover, there is RTI report of Khand Shiksha Adhikari, Khekra, Baghpat, wherein, it is mentioned that petitioner is working as Shiksha Mitra. No document has been placed on record by the respondent to show that she is drawing salary more than Rs. 10,000/- per month. The Petitioner no. 1 for the assessment Year 2017-2018 shows that annual income of petitioner no. 1 as Rs. 4,00,724/-. The petitioner no. 1 has not placed on record any current Form-16 or any current salary slip to show her present income. Moreover, the respondent has admitted his marriage with the petitioner no. 1 and also admitted that he is a government employee working with Northern Railway and posted that he is a government employee working has also admitted his salary at present 56,200/- per month Respondent has admitted that from this wedlock one female child namely Apoorva was born. Respondent has admitted that petitioner no. 1 used to look after the child. This witness has admitted that all his sisters are married. This witness has also admitted that he is having agricultural land and earning Rs. 12,000/- to Rs. 13,000/- annually from the agricultural land. Thus, income of respondent is approx. Rs. 58,000/- per month.

9. In view of the above discussions, I am of the view that petitioner no.1 has concealed her real income and she has not placed on record her recent salary certificate. As the petitioner no. 1 has not placed on record her recent salary slip and recent form-16, I am of the view that petitioner no. 1 is not entitled to maintenance as she is earning.”

4. The learned counsel for the petitioner-wife, as regards the first revision petition, submits that the impugned judgment erroneously and unjustly denied her maintenance, disregarding the financial hardships faced by her. It is contended that the impugned judgment fails to properly appreciate the record and is instead premised on conjectures and surmises. It is argued that the wife is employed as a temporary teacher in the U.P. Government, earning a meagre salary of Rs. 10,000/- per month, out of which she pays Rs. 5,000/- per



month as rent for her accommodation, whereas the husband earns Rs. 60,000–70,000/- per month and leads a luxurious life. Therefore, it is submitted that the impugned judgment deserves to be set aside in revision.

5. The learned counsel appearing for the husband, on the other hand, submits that the impugned judgment, insofar as it denies maintenance to the wife, is legally tenable. It is contended that the conduct of the wife is not above board, as she suppressed material facts regarding her real income from the Court. It is further argued that she voluntarily left the matrimonial home without any reasonable cause, thereby disentitling her from claiming maintenance.

6. As regards the second revision petition filed by the husband, it is submitted by his learned counsel that the impugned judgment deserves to be set aside to the extent that it directs him to pay Rs. 16,000/- per month to the minor child. It is contended that the Family Court unjustly failed to take into account the financial condition of the husband and, without proper application of judicial mind to the material on record, directed him to pay an excessive maintenance amount.

7. The learned counsel appearing for the wife and minor child, however, submits that the husband is attempting to evade his legal responsibility behind a false plea of financial hardship. It is argued that the impugned judgment is legally sustainable, inasmuch as the



amount directed is essential for meeting the basic needs of the minor child.

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

9. At the outset, it will be apposite to note that Section 125 of the Cr.P.C is a beneficial provision, premised on a moral obligation of husband and father, and intended to prevent, *inter alia*, the wife and children from being subjected to the adversities of vagrancy and destitution. It is also trite that proceedings under Section 125 of Cr.P.C. are summary in nature and the Court has to take a *prima facie* view of the dispute between the parties.

10. In the above context, this Court has carefully examined the evidence on record as well as the findings recorded by the learned Family Court. Insofar as the wife's claim for maintenance is concerned, it emerges that she had admitted in her cross-examination that she is employed in the Education Department at Khekra, Baghpat, though on a temporary basis. She further admitted that her salary slip of December 2016 reflected her salary as Rs. 33,052/- and her income tax return for the year 2017-2018 also disclosed an annual income of Rs. 4,00,724/-, though it is her case that thereafter, her services were terminated by way of judgment dated 25.07.2017 passed by the Hon'ble Supreme Court, after which she was working on a temporary basis. While she claimed that her current salary is only Rs. 10,000/- per month, she failed to produce any recent salary



slip or Form-16 to substantiate the same, and thus, no recent salary certificate was placed before the learned Family Court despite opportunities given by the learned Trial Court. She also did not offer any plausible explanation in the evidence for withholding recent salary details.

11. The learned Family Court, thus rightly reached to a conclusion that such omission, without any cogent explanation, casts a doubt on the genuineness of her claim and justifies an adverse inference against her. The learned Family Court, therefore, rightly held that the wife had concealed her actual income and withheld the most relevant documents which alone could establish her present financial incapacity. This Court concurs with that view, as the primary ingredient for grant of maintenance to a wife under Section 125 Cr.P.C. – i.e. her inability to maintain herself – has not been satisfactorily proved, in absence of clear and reliable evidence of financial hardship, the claim of the wife becomes speculative and cannot be sustained.

12. Insofar as the minor child's claim is concerned, the law is settled that a child's right to maintenance is independent of the disputes between her parents, and the father is bound to maintain the children. In the present case, the husband has admitted that he is working with the Northern Railways, drawing a salary of Rs. 56,200/- per month apart from nominal agricultural income, making his monthly income around Rs. 58,000/-. Against this, the learned



Family Court directed him to pay Rs. 16,000/- per month towards the maintenance of his daughter.

13. This aforesaid amount, constituting roughly one-third of the husband's income, cannot be termed excessive. On the contrary, it commensurate with his means and the necessary financial support required to meet the educational, medical, and other day-to-day requirements of a growing child. Importantly, no material has been placed on record to show that the husband is saddled with any other significant liabilities which would render this amount onerous. Therefore, the learned Family Court's award of maintenance to the child is just and reasonable, This Court finds no infirmity in that determination.

14. The reasoning recorded by the Family Court does not suffer from any perversity or illegality so as to warrant interference in these revision petitions.

15. Accordingly, both the petitions, alongwith pending applications, if any, are dismissed.

16. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
SEPTEMBER 10, 2025/zp