



2025:DHC:7489



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

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*Reserved on: 06th August, 2025
Pronounced on: 29th August, 2025*

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CRL.REV.P.(MAT.) 131/2025 & CRL.M.A. 8765/2025

ANKUSH KUMAR PARASHAR

S/O Shri Brijesh Parashar

R/O A-3/10 DLF, Ghaziabad, U.P.

.....Petitioner

Through: Mr. Pramod Kumar, Advocate

versus

1. SAPNA @ MONA

W/O Sh. Ankush Parashar,
D/O Sh. Dabbal Ram Sharma,
R/O H.No. C-4/33B Sudampuri,
Gama Extension, Delhi.

2. MASTER MADHAV (through his mother)

S/O Sh. Ankush Parashar

.....Respondents

Through: Mr. Rajbir Singh Sagar, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Criminal Revision Petition under Sections 438/442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*) has been filed on behalf of the *Petitioner/Ankush Kumar Parashar* for setting aside/modify *Order dated 30.04.2024 passed by learned Judge, Family Courts, North District, Karkardooma Courts, Delhi*, in MT Case No.504/2019, whereby Petition under Section 125 Code of Criminal



Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*) filed by the Respondents was allowed and the Petitioner was directed to pay maintenance @ Rs.25,000/- per month.

2. It is submitted that the Petitioner/Ankush Kumar Parashar and Respondent No.1/ Sapna @ Mona got married on 02.07.2017 according to Hindu rites and ceremonies. One child, namely, Master Madhav/Respondent No.2 was born from the said wedlock on 13.06.2018, who is presently in custody of Respondent No.1. She is alleged to have left the matrimonial home by her free will, without any sufficient reason.

3. The Petitioner has claimed that he has been deprived of love, affection and bonding with his son, as Respondent No.1 on several occasions, has rejected his request to meet the son. The Petitioner also approached the Respondents through common family members and well-wishers to join his company, but Respondent No.1 remained under the influence of her family members and kept insisting that the Petitioner must shift in the vicinity of her parental home.

4. She used to spend less time in her matrimonial home and more with her parents. There were several instances when she insulted and abused the Petitioner publically and threatened him with dire consequences, if he did not sever his ties with his parents and family members. Their relationship turned from bad to worse over of period of time.

5. Eventually, she withdrew from the company of the Petitioner without sufficient reasons in April, 2018. Thereafter, she filed a Maintenance Petition under Section 125 Cr.P.C. in November, 2019 claiming maintenance of Rs.25,000/- per month, only to extort money from the Petitioner and harass him.



6. She alleged that the Petitioner was drawing a salary of Rs.70,000/- per month, even though no document was produced in support of this assertion. She also alleged that the Petitioner has no liability except that of the Respondents, whereas he is maintaining his parents, who are senior citizens and unemployed.

7. The Petitioner has asserted that he is willing to keep and maintain the Respondents. He made *bona fide* effort to resolve the issues by approaching Respondent No.1 and her family members on 10.04.2021 and went to her parental home for productive conversations.

8. The Petitioner has submitted that he was working as *Assistant Process Manager, Eclerx-Agllyst, DLF*. He had filed his Written Statement and Affidavit of Income and Bank Account Statements in the Maintenance Petition, which reflects *his net salary after deductions as Rs.36,000/- per month*. Additionally, he had purchased a Flat in the year 2016 for which he was paying EMI of Housing Loan @ Rs.11,341/- per month. He is also paying rent @ Rs.9,000/- per month, aside from spending about Rs.8,000/- per month on the expenses of his parents and Rs.7,000/- per month towards his personal expenses. He further submits that because of his medical condition, he was unable to lead evidence in the present case.

9. It is submitted that Respondent No.1 is B.Com. (Graduate). Prior to their marriage, she was teaching in a school and presently she is doing tailoring/boutique work and is earning more than Rs.15,000/- per month.

10. It is further submitted that on the basis of assumption that the Petitioner was drawing salary of Rs.50,000/- per month, learned Judge, Family Courts awarded *interim maintenance* in favour of the Respondents



@ Rs.20,000/- per month w.e.f. from the date of filing of the Application till disposal of the main Petition, vide Order dated 22.10.2021.

11. This order of interim Maintenance was challenged before the Co-ordinate Bench of this Court, who *vide* Order dated 25.04.2022 set aside the Order of learned Judge, Family Court, and reduced the amount of interim maintenance to Rs.15,000/- per month.

12. *Vide* final Order/Judgment dated 30.04.2024, the Maintenance Petition was disposed of and *maintenance @ Rs.25,000/- per month was awarded in favour of the Respondents* on basis of the assumption that the Petitioner is drawing a salary of Rs.50,000/- per month.

13. *Aggrieved by the impugned Order dated 30.04.2024, whereby the learned Judge, Family Court, granted Rs. 25,000/- per month as maintenance to the Respondents, the present petition has been filed.*

14. The **grounds of challenge** to the impugned Order are that it is against the facts and evidence on record.

15. The Petitioner has submitted that his salary has been wrongly assumed to be Rs.50,000/- per month. His Affidavit of Income and Bank Statements reflect his salary after deductions as Rs.36,000/- per month. His responsibilities towards his parents and other expenses have not been considered. It has also not been considered that Respondent No.1 is a B.Com. Graduate and not only capable of working and earning her livelihood, but has also been having independent earnings and was not entitled to claim any maintenance. The Petitioner does not have sufficient means to meet the liability to pay maintenance @ Rs.25,000/- per month.

16. Reliance has been placed on Judgment dated 29.11.2016 passed by Hon'ble High Court of Madhya Pradesh in Criminal Revision No.829/2014



titled as Anil vs. Smt. Sunita, where the maintenance was declined to the wife observing that if the wife leaves the company of her husband for no good reason, then she can't seek maintenance from her husband under Section 125 Cr.P.C. The marital duties imposed upon the husband and the right to maintenance of the wife, is subject to performing her statutory and moral duties.

17. Further, reliance has been placed to Sh. Bharat Hegde vs. Smt. Saroj Hegde, 140 (2007) DLT 16, wherein this Court observed that whilst it is important to ensure that the maintenance awarded to the Applicant is sufficient to enable the Applicant to live in somewhat the same degree of comfort as in the matrimonial home, but it should not be so exorbitant that the non applicant is unable to pay.

18. Reliance has also been placed on Annurita Vohra vs. Sandeep Vohra, wherein it was observed that every case has to be decided on its own peculiar facts and the Order has created an imbalance in his life so much so that he is not even able to maintain his parents and himself, if the quantum of maintenance be suitably reduced so that he would be able to pay the same.

19. It is further stated that the Petitioner had lost his job in September, 2024 and got re-employed in the same company at a lower position with salary of Rs.21,500/- per month.

20. It is submitted that the Petitioner is struggling to even meet basic expenses of his life. While it cannot be denied that the wife should be maintained and the Petitioner has never shrugged off his responsibility, but is aggrieved of the quantum of maintenance, as he would not be able to even meet his basic expenses and would collapse financially.



21. *Prayer is therefore, made that the maintenance Order dated 30.04.2024 be modified and the maintenance awarded to the Respondents may be reduced.*

22. **No formal Reply has been filed on behalf of the Respondents**, but it has been contended that a reasonable Order on the basis of evidence has been made by learned Judge, Family Courts, which does not merit any interference.

Submissions heard and record perused.

23. For granting the maintenance under Section 125 Cr.P.C., essentially two factors have to be considered. **Firstly**, that the wife has not deserted the husband without any reasonable cause; and **Secondly**, determination of quantum of maintenance, depending upon the circumstances and working capacity of both the parties.

The first aspect for consideration is whether Respondent No. 1 had deserted raised the Petitioner without any Reason:

24. The Petitioner/husband has contended that the Respondent No.1/wife was keen to stay in a residence near her parental home and was always insisting on separating from her in-laws. She spent more time in her parental home, but the Petitioner has admittedly not led any evidence either by way of cross-examination of the Respondents or his own evidence.

25. Respondent No.1, on the other hand, specifically asserted that she was being harassed by the Petitioner and his family; they demanded cash and car and had also beaten her on 31.12.2017, while she was pregnant. She further asserted that the Petitioner and his family also tried to abort the pregnancy.



She gave birth to a boy on 13.06.2018, but the Petitioner never came to see the child and since then they have been living separately.

26. Respondent No.1 made specific averments that she was compelled to leave the matrimonial home because of ill treatment. Her testimony of this aspect has not been challenged since she was not cross-examined by the Petitioner. Moreover, he did not adduce any evidence to support his assertions. The Petitioner has failed to produce any evidence in proof of his contentions.

27. The learned Judge, Family Courts has thus, rightly observed that there is nothing to show that the wife had separated without any reason or had deserted the Petitioner. Therefore, it has been rightly concluded that the Petitioner has failed to prove that his wife was living separately without any sufficient cause.

Quantum of Maintenance:

28. **The second aspect for consideration is the quantum of maintenance, as Rs.25,000/- per month were granted to the Respondents.**

29. Though the Petitioner had not adduced any evidence, but he has filed Written Statements and Affidavit of Income, wherein he had stated that his income was Rs.40,000/- per month and that he was getting Rs.36,000/- per month after deductions.

30. The Petitioner has filed his Affidavit of Income along with copy of his HDFC Bank statements till March, 2021, which reflect that he was *drawing salary of about Rs.39,000/- to Rs.41,000/-*. Learned Judge, Family Courts has, thus, rightly noted his salary as Rs.40,000/- per month, which is also corroborated by the Bank statements of the Petitioner.



31. Having ascertained the Petitioner's income, the next question is *whether Rs.25,000/- per month has been rightly awarded to the Respondents out of salary of Rs.40,000/- per month*. Although in her Affidavit Of Income, Respondent No.1 has stated that she was incurring monthly expense of Rs.20,000/- but pertinently, she has not deposed anything about her income and has not given details of expenses of the child and herself. On the other hand, the Petitioner has shown that he was paying Rs.11,000/- per month towards EMI for Home Loan, as is apparent from his Bank statement. He has also shown his personal expenses along responsibilities of his parents.

32. The Petitioner has contended that he had lost his job in September, 2024, but was re-employed by the same Company on a junior position with salary @ Rs. 21,500/- per month. He has annexed the letter of *cityfurnish*, wherein it has been stated that with reference to Petitioner's Resignation dated 12.09.2024 and Company's subsequent discussion, his gross salary has been revised to Rs.23,200/- w.e.f. 01.10.2024 and the take home salary has been shown as Rs.21,369/-.

33. It is pertinent to observe that no Resignation Letter has been furnished and the circumstances in which the resignation is accepted and re-employment in the same Company at much less salary has been fixed, are the subsequent events which are required to be proved by the Petitioner. In case there is any subsequent alteration in his salary, his option to move an Application under Section 127 Cr.P.C. to seek modification in the impugned Order, which is left open.

34. The maintenance amount must be determined in a balanced manner; it should be one that ensures adequate support for the wife and child, while



2025:DHC:7489



also taking into account the Petitioner's financial obligations of his liability towards Home Loan, his expenses and responsibility towards parents. Considering the totality of the circumstances, and the Petitioner's financial situation, with no specific details of expenses of the Respondents proved, **the quantum of maintenance is hereby modified to Rs.10,000/- per month to Respondent No.1/wife and Rs.7,500/- per month to Respondent No.2/child.**

35. The impugned Order granting maintenance @ Rs.25,000/- per month is accordingly modified and the Respondents are awarded maintenance @ Rs.17,500/- per month towards wife and child from the date of filing of the Petition till Respondent No.1 gets married or her lifetime as the case may be, and Respondent No.2 becomes major. This Order is without prejudice to the Rights of the Parties under Section 127 Cr.P.C. and other provisions of law.

36. The Petition along with pending Applications is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 29, 2025/R