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

CNR No. DLHC010422552026

+ **CRL.REV.P.(MAT.) 523/2026 & CRL.M.A. 27715/2026**

[REDACTED]

.....Petitioner

Through: Mr. Akshay Joshi, Adv.

versus

[REDACTED] A

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

% **08.09.2026**

1. This hearing has been done through hybrid mode.
2. The present revision petition has been filed by petitioner who was arrayed as the respondent before the learned Principal Judge, Family Courts, South District, Saket Courts, New Delhi, in MT Case No. 13/2025, titled "Shardha Rana v. Bhim Singh Rana". The petitioner assails the order dated 18.04.2026, whereby the learned Family Court directed him to pay *ad-interim* maintenance of ₹15,000/- per month to the respondent from the date of the said order.
3. The parties were married according to Hindu rites in April 1975. Three children were born from the wedlock. It is stated that all the children are now major, married and independently settled.
4. According to the respondent, in or around March 1985, the petitioner assaulted her and drove her and the children out of the matrimonial home. She has stated that she thereafter went to her parental home with two of the children, while the eldest child remained with the petitioner.



5. The respondent has further stated that she subsequently shifted to Delhi in search of employment and continued to maintain herself through such work. She has alleged that, although the petitioner met her and the children on different occasions and made assurances regarding their support and reunion, he did not provide her regular maintenance.

6. She has claimed that she has no sufficient independent income or property and is presently dependent upon her married daughter. She has accordingly sought maintenance of ₹40,000/- per month, besides other reliefs.

7. The petitioner, on the other hand, has stated that the respondent left the matrimonial home voluntarily in February/March 1985, when he was away on Army duty, and took two of the children with her. He has stated that an FIR concerning her disappearance was registered in March 1985 and that, despite efforts on his part, she did not return to the matrimonial home.

8. The petitioner has asserted that the parties have been living separately for several decades and that the respondent did not, during this period, seek maintenance from him.

9. The respondent filed an application before the learned Family Court seeking *interim* maintenance. The application was considered along with the pleadings and material placed on record by the parties.

10. The petitioner has stated that he filed his reply/objections and an affidavit before the learned Family Court. He has also relied upon the affidavits of assets, income and expenditure filed by the respondent, dated 20.12.2024 and 18.03.2026.

11. The petitioner has pointed out that the said affidavits contain differences regarding the date from which the parties were allegedly living separately, the respondent's monthly expenditure and her employment status.



According to the petitioner, the earlier affidavit disclosed that the respondent was self-employed and earning approximately ₹5,000/- per month, whereas the subsequent affidavit stated that she was not employed and had no income.

12. By the impugned order dated 18.04.2026, the learned Family Court observed that the petitioner was receiving pension and was capable of maintaining the respondent. The learned Family Court further observed that the respondent had never worked and that the petitioner was not making any payment towards her maintenance.

13. On the aforesaid basis, the learned Family Court directed the petitioner to pay *ad-interim* maintenance of ₹15,000/- per month to the respondent from the date of the order and directed that the payment be commenced immediately.

14. The matter before the learned Family Court was thereafter directed to be listed on 16.07.2026. The petitioner has challenged the said order in the present revision petition.

SUBMISSIONS ON BEHALF OF THE PARTIES:

15. Learned counsel for the petitioner submits that the impugned order is a non-speaking and mechanical order. The learned Family Court has not considered or dealt with the specific objections raised by the petitioner regarding the respondent's alleged desertion, the unexplained delay of more than forty years in claiming maintenance, and the statutory bar under Section 125(4) Cr.P.C.

16. It is submitted that the petitioner's reply/objections and affidavit, filed on 08.08.2025, were already on record before the learned Family Court. However, the impugned order does not refer to the said reply or the objections raised therein. The failure to consider the petitioner's defence has resulted in



a one-sided determination of the application for ad-interim maintenance.

17. Learned counsel submits that, even at the *interim* stage, the Court was required to form a *prima facie* opinion regarding the respondent's entitlement to maintenance. The learned Family Court could not have granted *ad-interim* maintenance without considering the specific and substantiated objection that the respondent had been living separately for several decades.

18. It is submitted that the petitioner's case is that the respondent left the matrimonial home voluntarily in or around February/March 1985 and thereafter remained separate from him for more than forty years. The said issue may ultimately require evidence, but it was nevertheless necessary for the learned Family Court to consider the objection and record at least a *prima facie* finding before granting maintenance.

19. Learned counsel further submits that the respondent's own pleadings, particularly paragraphs 17 and 22 of the maintenance petition, state that she worked as a labourer/stone-breaker in Shillong and thereafter as a thread/yarn cutter in a garments factory in Delhi. These averments materially contradict the observation in the impugned order that the respondent was unemployed and had never worked.

20. It is submitted that the learned Family Court proceeded on the basis of an oral submission regarding the respondent's unemployment without examining her own pleadings or the affidavits of assets, income and expenditure filed on record. The petitioner had specifically pointed out the inconsistencies between the affidavits dated 20.12.2024 and 18.03.2026 regarding the respondent's employment, income, expenditure and the date of separation.

21. Learned counsel submits that the impugned order does not disclose any



consideration of the petitioner's income, pension, dependants, liabilities or other financial obligations. The amount of ₹15,000/- per month has been fixed without recording any reasons or indicating the basis on which the said quantum was assessed.

22. It is further submitted that the extraordinary delay of more than forty years in approaching the Court was a relevant circumstance which required consideration, particularly in the absence of any satisfactory explanation for the delay. The petitioner submits that the said circumstance was relevant at least for assessing the *prima facie* nature and *bona fides* of the claim for immediate *ad-interim* maintenance.

23. It is submitted that the petitioner does not seek a final adjudication of the disputed questions at the revisional stage. His limited grievance is that the *ad-interim* maintenance was decided without considering the reply, affidavit and objections already on record. The impugned order is therefore liable to be set aside and the matter remanded to the learned Family Court for fresh consideration after hearing both parties and dealing with the objections raised by the petitioner.

24. Learned counsel accordingly prays that the operation of the impugned order dated 18.04.2026 be stayed during the pendency of the present revision petition and that the *ad-interim* maintenance be reconsidered in accordance with law.

ANALYSIS AND FINDINGS:

25. This Court has considered the submissions advanced on behalf of the petitioner and has perused the impugned order as well as the material placed on record.

26. At the outset, it is not in dispute that the parties are legally married and



that no decree of divorce has been passed between them. The marital relationship, therefore, continues to subsist. A wife's right to claim maintenance during the subsistence of marriage is a recognised statutory right, subject to the conditions prescribed under the applicable law. The mere fact that the parties have been living separately for a considerable period does not, by itself, bring the marriage to an end or extinguish the wife's claim for maintenance.

27. The Supreme Court, in ***Rajnish v. Neha, (2021) 2 SCC 324***, has explained that proceedings for maintenance under Section 125 Cr.P.C. are intended to provide immediate relief to a wife who is unable to maintain herself. The Court has also recognised that the right to maintenance may arise during the subsistence of marriage and that the proceedings are summary in nature. The Supreme Court held as under:

“29. Chapter IX of Code of Criminal Procedure, 1973 provides for maintenance of wife, children and parents in a summary proceeding. Maintenance Under Section 125 of the Code of Criminal Procedure may be claimed by a person irrespective of the religious community to which they belong. The purpose and object of Section 125 Code of Criminal Procedure is to provide immediate relief to an applicant. An application Under Section 125 Code of Criminal Procedure is predicated on two conditions: (i) the husband has sufficient means; and (ii) "neglects" to maintain his wife, who is unable to maintain herself. In such a case, the husband may be directed by the Magistrate to pay such monthly sum to the wife, as deemed fit. Maintenance is awarded on the basis of the financial capacity of the husband and other relevant factors.

30. The remedy provided by Section 125 is summary



in nature, and the substantive disputes with respect to dissolution of marriage can be determined by a civil court/family court in an appropriate proceeding, such as the Hindu Marriage Act, 1956.”

28. The petitioner’s principal objection is that the respondent has been living separately from him since 1985 and that, according to him, she left the matrimonial home voluntarily. The respondent, however, has alleged that she was compelled to leave on account of cruelty and ill-treatment. Thus, the circumstances in which the respondent started living separately are seriously disputed by the parties.

29. The question as to whether the respondent left the matrimonial home of her own accord, whether she had sufficient reason to live separately, and whether the parties were living separately by mutual consent are matters which require appreciation of the pleadings and, if necessary, evidence. At the stage of considering *ad-interim* maintenance, the Court is not required to finally adjudicate these disputed questions. The mere assertion of the husband that the wife deserted him cannot, by itself, defeat her claim for interim maintenance.

30. Section 125(4) Cr.P.C., corresponding to Section 144(4) of the BNSS, creates an exception to the general entitlement to maintenance where the wife is living in adultery, refuses to live with her husband without sufficient reason, or the parties are living separately by mutual consent. However, the applicability of the exception depends upon the facts and circumstances of each case. In the present matter, the respondent has furnished an explanation for living separately, whereas the petitioner has put forward a contrary version. The issue cannot be conclusively decided merely on the basis of the



pleadings at this interlocutory stage.

31. The petitioner has also relied upon the fact that the respondent approached the Court after a considerable lapse of time. However, delay in seeking maintenance, by itself, cannot be treated as a complete bar to the claim. Maintenance is a continuing obligation, and the absence of an earlier claim does not necessarily establish that the respondent had voluntarily relinquished her right to maintenance for all times to come. The effect of the delay, if any, would have to be assessed along with the explanation furnished by the respondent and the other material on record.

32. In ***Chaturbhuj v. Sita Bai, (2008) 2 SCC 316***, the Supreme Court held that the expression “unable to maintain herself” does not mean that the wife must be absolutely destitute before she can claim maintenance. The Court further held that even where the wife earns some income, the relevant question is whether such income is sufficient for her to maintain herself.

33. The petitioner has further contended that the learned Family Court did not consider his reply and objections filed on 08.08.2025. It is true that the impugned order is brief in nature and does not deal with each objection raised by the petitioner. However, an order granting *ad-interim* maintenance is not required to contain a detailed determination of every disputed issue. The Court is required to arrive at a tentative assessment of the parties’ respective circumstances and to ensure that the wife is not left without financial support during the pendency of the proceedings.

34. The impugned order records that the petitioner is receiving pension and is capable of maintaining the respondent. The petitioner has not disputed that he is a retired Army personnel and is receiving pension. His objection is principally with regard to the quantum of maintenance and his other financial



responsibilities. These aspects can be placed before and examined by the learned Family Court on the basis of the income affidavit, bank statements, pension documents and other relevant material.

35. The amount of ₹15,000/- per month granted by the learned Family Court is *ad-interim* in nature and is subject to variation upon consideration of the complete material and the respective affidavits of income, assets and expenditure. The direction does not constitute a final adjudication of the respondent's entitlement to maintenance or of the petitioner's liability for the entire period claimed by her.

36. The absence of a decree of divorce is particularly significant in the present case. The parties continue to be husband and wife in the eyes of law. The petitioner cannot contend that merely because the respondent has been living separately for several decades, her status as his wife has ceased or that her claim for maintenance is extinguished. Whether her separate residence falls within any of the exceptions under Section 125(4) Cr.P.C./Section 144(4) BNSS is a matter to be determined on the basis of evidence and the circumstances of the case.

37. Consequently, the petitioner's objections regarding desertion, delay, past employment and discrepancies in the affidavits do not justify setting aside the *ad-interim* order at this stage. The impugned order is an *interim* arrangement and does not prevent the petitioner from placing all relevant material before the learned Family Court or from seeking modification of the amount upon disclosure of the complete financial circumstances of both parties.

38. In view of the aforesaid discussion, this Court finds no ground to interfere with the impugned order dated 18.04.2026. The present revision



petition, along with the pending application, is accordingly dismissed. The pending application(s), if any, also stands disposed of.

39. The learned Family Court shall proceed with the matter uninfluenced by any observation made in the present order and shall consider the affidavits, documents and objections of both parties while determining the further quantum of maintenance.

40. The order be uploaded on the website forthwith.

MADHU JAIN, J

SEPTEMBER 8, 2026/JYH/P