2026:DHC:7905-DB

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

Reserved on: <u>22.07.2026</u>

Pronounced on: <u>16.09.2026</u>

CNR No. DLHC010975142024

+   MAT.APP.(F.C.) 439/2024 & CM APPL. 75595/2024

.....Appellant

Through: Mr. Prakash Chandra, Advocate

versus

.....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE VIVEK CHAUDHARY
HON'BLE MS. JUSTICE RENU BHATNAGAR

<u>J U D G M E N T</u>

1. The present appeal has been filed under Section 19(1) of the Family Courts Act, 1984 read with Section 28 of the Hindu Marriage Act, 1955 (hereinafter referred to as "HMA") assailing the Order dated 12.11.2024 passed by learned Principal Judge, Family Courts, Shahdara, Karkardooma Courts, Delhi, in HMA No. 165/2021 titled as **,** whereby, the application filed under Section 24 of the HMA was disposed of directing the appellant husband to pay a sum of Rs. 5,000/- per month as *pendente lite* maintenance to the respondent wife from the date of filing of the application, i.e., from 08.01.2021 till disposal of the

divorce petition.

2. The brief facts necessary for adjudication of the present appeal are that the marriage between the parties got solemnized on 25.10.2015 according to Hindu rites and rituals. Out of the said wedlock, one girl child was born on 26.08.2016 who is in the custody of the respondent. Due to marital discord, the parties are living separately since 11.11.2020. Subsequently thereafter, the respondent preferred a petition under Section 13 (1)(ia) of the HMA seeking divorce on grounds of cruelty, along with an application under Section 24 of the HMA and in the said application, the impugned order was passed which is under challenge before this Bench in this appeal.

3. Learned counsel for the appellant submitted to the effect that the impugned order is bad in law as well as in facts and circumstances of the present case. It is submitted that the respondent is financially stable as admitted by her in her petition seeking custody under Section 25 of the Guardians and Wards Act, 1890, as well as in her complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005. It is stated that admittedly, the respondent had worked in a Bata showroom from the month of March 2020 to June 2024 and hence, the decision of the learned Family Court in granting interim maintenance of Rs. 5,000/- per month from the date of filing of the application under Section 24 of HMA, i.e., 08.01.2021, is erroneous and liable to be set aside.

4. It is contended that the learned Family Court failed

to acknowledge that the appellant is himself financially dependent on his father as he is earning a meagre amount of Rs. 16,500/- per month by working as an Operator at his father's small photostat shop. It is further his case that he also has responsibility to take care of his daughter as she is in the care and custody of the appellant, and her monthly expenses range from Rs. 8,000/- to Rs. 10,000/- which are borne entirely by him.

5. Learned counsel for the appellant also submitted that the learned Family Court erred in assessing the income of the appellant at Rs. 22,000/- per month, solely based on Notification dated 26.09.2024 issued by the Government of NCT of Delhi (hereinafter as "GNCTD") as the appellant is neither a resident of Delhi nor employed therein as he is residing in Jagadhari, Haryana and thus, would not be governed by the minimum wages prevailing in Delhi.

6. Further, it is contended that the appellant is merely a matriculate with no professional or technical qualifications and, therefore, he ought to have been treated as an unskilled worker for the purpose of income assessment.

7. It is further contended that the learned Family Court failed to appreciate the inherent inconsistency in the respondent's own pleadings. It is submitted that while the respondent claimed to be employed only on Saturdays and Sundays, earning a monthly income of merely ₹7,000/-, however, she simultaneously asserted in her application under Section 24 of the HMA that her monthly expenses amounted to ₹39,500/-. Thus, the learned Family Court overlooked a

material contradiction which directly impacted the assessment of her financial status for the purpose of granting a relief under Section 24.

8. Neither the respondent is appearing nor has he filed a reply despite grant of opportunity.

9. Heard learned counsel for the appellant and perused the record.

10. The principles governing the grant of interim maintenance are well-settled. It is often seen that the spouses do not reflect their true and correct income, making the task of Family Court difficult to assess the correct income of the spouses and as such, the Family Court has to make the assessment of income on some guess work.

11. In the case of ***Jasbir Kaur Sehgal v. District Judge Dehradun & Ors.,*** reported as (1997) 7 SCC 7, the Supreme Court has recognized the fact that the spouses in the proceedings for maintenance do not truthfully disclose their true income and therefore, some guess work on the part of the Court is permissible. Further, the Supreme Court has also observed that considering the diverse claims made by the parties, one inflating the income and the other suppressing, an element of conjecture and guess work does enter for arriving at the income of the husband. It cannot be done by any mathematical precision. Relevant extract of the aforesaid case is reproduced hereinbelow:

> *"**7.** The husband has filed his counter-affidavit in the appeal before us and on our direction both the parties have filed additional affidavits. On one date when this appeal came up for hearing we were told that the husband had left that morning itself for Canada for further treatment after his bypass surgery in*

India and that his expenses for visiting Canada as well as the expenses for treatment there were being met by his friend. In his affidavit the husband has stated that his friend Santokh Singh who is a resident of Canada paid his fare. He is, however, silent about the expenses, if any, met by Santokh Singh for his treatment in Canada. A copy of the statutory declaration of Santokh Singh which is dated 21-3-1997 has also been filed. In this Santokh Singh does say that he has undertaken to bear the cost of passage and maintenance of the respondent during his stay in Canada and North America. It is a matter of common knowledge that medical treatment in Canada is high and an ordinary person cannot afford the expenses which are met by taking medical insurance. As to what expenses the husband incurred for his bypass surgery in India has not been disclosed. On our query as to how much foreign exchange the husband obtained while going to Canada, it was stated that 1350 U.S. Dollars were obtained at a cost of about Rs 50,000. From where all these monies came from we are left in the dark. The husband has not filed any certificate of his salary from his present employer though the wife has contended that both the firms, Mukul Overseas Pvt. Ltd. and Mukul International Pvt. Ltd. are owned by the husband himself which fact the husband has denied. Though we are not concerned with the income of his son which is stated to be Rs 7500 per month, it would have been better if the husband had given complete details as to the perquisites enjoyed by his son, the rent he is paying for his rented accommodation at Safdarjung Enclave and the like. The claim of the husband that though his house in NOIDA fell vacant in January 1996, it has neither been further let nor is the husband himself living there because of certain repairs and on that account he is residing with his son does not appeal to us. It *does appear to us from the affidavit of the husband that it conceals more than what it tells of his income and other assets. Attempt has been made to conceal his true income and that leads us to draw an adverse inference against the husband about his income that it is much more than what is being disclosed to us. The claim of the husband that from an income of Rs 4750 per month which he is getting from Mukul International Pvt. Ltd. he has to maintain himself, his two sons and daughter is absurd particularly when the eldest son is earning more than the husband and it is the husband who is living with him. The husband has also not disclosed retiral benefits, if any, from ONGC and the amount of provident fund he obtained from there. The husband has interest income from the Unit Trust of India and also from the fixed deposit receipts but again he has not disclosed the number of units he is holding and the amount of the fixed deposits in his name. From all this we have to hold that the annual income of the respondent-husband is even on a modest estimate to be Rs 2,40,000 annually which would come to Rs 20,000 per month.* ***Considering the diverse claims made by the parties, one inflating the income and the other suppressing, an element of conjecture and guesswork does enter for arriving at the income of the husband. It cannot be done by any mathematical precision****."*

(Emphasis Supplied)

12. Further, in the case of ***Rajnesh v. Neha,*** (2021) 2 SCC 324, the Apex Court streamlined the disclosure of norms by mandating comprehensive affidavits of assets and liabilities to minimize blind guess work. The Apex Court, referring to the judgment of ***Bharat Hedge v. Saroj Hedge***, 2007 SCC OnLine Del 622, had held to take

into account the following aspects while assessing the income of the husband. Relevant extract has been reproduced hereinbelow:

> *" 84. The Delhi High Court in Bharat Hegde v. Saroj Hegde [Bharat Hegde v. Saroj Hegde, 2007 SCC OnLine Del 622 : (2007) 140 DLT 16] laid down the following factors to be considered for determining maintenance : (SCC OnLine Del para 8)*
>
> *"1. Status of the parties.*
> *2. Reasonable wants of the claimant.*
> *3. The independent income and property of the claimant.*
> *4. The number of persons, the non-applicant has to maintain.*
> *5. The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.*
> *6. Non-applicant's liabilities, if any.*
> *7. Provisions for food, clothing, shelter, education, medical attendance and treatment, etc. of the applicant.*
> *8. Payment capacity of the non-applicant.*
> *9. Some guesswork is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.*
> *10. The non-applicant to defray the cost of litigation.*
> *11. The amount awarded under Section 125 CrPC is adjustable against the amount awarded under Section 24 of the Act."*

13. Accordingly, a Court, while disposing an application under Section 24 HMA, is required to consider the income, earning capacity, education, qualifications, liabilities as well as standard of living enjoyed during the subsistence of marriage. Mathematical precision is

secondary as the provision aims at delivering justice to the aggrieved party which has no financial support.

14. A bare perusal of the impugned order reveals that the learned Family Court duly considered the income affidavits of both the parties and arrived at the conclusion that the while the respondent-wife was working in a Bata showroom from March 2020 till June 2024, earning a monthly sum of Rs. 7,000/-, the income of the appellant-husband was assessed at Rs. 22,000/- per month. Taking into consideration the aforesaid assessment, principles governing grant of interim maintenance as well as the income disparity between the parties, the learned Family Court deemed it fit to direct the appellant to pay Rs. 5,000/- per month as interim maintenance to the respondent from the date of filing of the application i.e. 08.01.2021 till the final disposal of the Divorce Petition.

15. For adjudication of the present appeal, this Court shall examine whether the impugned order suffers from any infirmity warranting interference by this Court.

16. Insofar as the appellant's plea with regard to wrong assessment of appellant's income by the learned family court is concerned, it is a well-settled principle that proceedings under Section 24 HMA are summary in nature, and the Court is required to arrive at a *prima facie* assessment of the income as well as financial status of the parties. Further, learned counsel for the appellant has also challenged the Family Court's reliance on the Notification dated 26.09.2024 which prescribes the minimum wages in respect of

unskilled, semiskilled and skilled employees in Delhi. It is his case that the appellant is neither a resident of Delhi nor is he employed there and therefore, the reliance on this notification for his income assessment was wholly untenable.

17. We find no merit in the aforesaid contention. Though, the appellant is stated to be residing and working in Jagadhari, Haryana, the prevalent minimum wages notified for the State of Haryana are broadly similar to those in Delhi. Further, due to absence of any credible evidence which establishes a lower income capacity of the appellant, the assessment of his monthly income at Rs. 22,000/- for the purpose of Section 24 HMA does not warrant any interference.

18. In the present case, the appellant has also relied upon a salary certificate issued by his father which reflects a monthly salary of Rs. 16,500/- which is at par with the Minimum Wages Act, 1948. From this salary certificate, the appellant had tried to show that he is getting the salary as per minimum wages, not more not less, from the business of his father. We find that the said document, cannot by itself, act as a conclusive proof to establish the appellant's case as it remains unsupported by any other cogent documentary proof. The appellant has failed to bring on record any other documentary evidence which supports his plea of his alleged income of Rs. 16,500/- per month. Accordingly, this Court finds the quantum of interim maintenance fixed by the learned Family Court at Rs. 5,000/- per month to be just, fair and reasonable.

19. Parties contesting an application filed under Section 24 HMA

tend to conceal their real income and earning capacity. A Court is not duty bound to accept the alleged income of a party and may draw adverse inferences from other relevant circumstances and on the basis of material placed before it.

20. In ***Bharat Hegde v. Saroj Hegde*** (Supra), this Court observed that, in the case of self-employed persons or persons employed in the unorganised sector, truthful income may not always surface, and therefore the Court has to take a general view while assessing financial capacity. The relevant portion has been reproduced as under:

> *"8. Unfortunately, in India, parties do not truthfully reveal their income. For self employed persons or persons employed in the unorganized sector, truthful income never surfaces. Tax avoidance is the norm. Tax compliance is the exception in this country. Therefore, in determining interim maintenance, there cannot be mathematical exactitude. The court has to take a general view…"*

21. In view of the above, we do not find any infirmity with the learned Family Court's approach in assessing the appellant's income.

22. However, at this stage, it is imperative to note that the learned counsel for the appellant has also challenged the impugned order insofar as the monthly maintenance of Rs. 5,000/- per month has been awarded to the respondent from the date of filing of her application, i.e., from 08.01.2021. The challenge is on the ground that the respondent herself has admitted that she was employed as a sales helper in Bata showroom till June 2024 and thus, the finding of the learned Family Court in awarding maintenance w.e.f. 08.01.2021

is erroneous and liable to be set aside.

23. This Court finds merit in the aforesaid contention. Apart from the petition filed under Section 25 of the Guardian and Wards Act, 1860 on 08.01.2021 by the respondent/wife, wherein, she had stated that she is financially independent and thus capable of securing a future for her daughter, even as per the respondent's affidavit dated 05.11.2024 filed before the learned Family Court, she stated that while she was employed as a sales helper in a Bata showroom on Saturdays and Sundays for an income of Rs. 7,000/- per month, she was ousted from her job in June 2024, as the owner of the showroom did not require extra staff. Hence, admittedly, at the time of filing of the maintenance application in 2021, the respondent was employed and earning.

24. Keeping in view the respondent's employment from the period of March 2020 till June 2024, it is held that she is not entitled to the interim maintenance with effect from the date of filing of her application, i.e., 08.01.2021 up till June 2024 as granted by the learned Family Court.

25. Accordingly, the present appeal is allowed to the extent that the monthly maintenance shall be awarded to the respondent w.e.f. 01.07.2024, i.e., from the date that she became unemployed. The appellant is thus, directed to continue paying the interim maintenance of Rs. 5,000/- per month to the respondent, in terms of the order of the learned Family Court w.e.f. 01.07.2024. Other terms and conditions imposed in the impugned order by the learned Family

Court shall continue.

26. The present appeal, along with pending applications, stands disposed of in the aforesaid terms.

VIVEK CHAUDHARY, J.

RENU BHATNAGAR, J.

SEPTEMBER 16, 2026/*p/sm/KZ*