



2026:DHC:8890-DB



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 09.07.2026

Date of decision: 08.10.2026

CNR No. DLHC010277012022

+ MAT.APP.(F.C.) 109/2022

MEENAKSHI BATRA

.....Appellant

Through: Ms. Malavika Rajkotia, Ms. Aashna Talwar, Mr. Mayank Grover & Ms. Akriti Tyagi, Advs. with Appellant in person.

versus

VIJAY KUMAR BATRA

.....Respondent

Through: Mr. Rakesh Jaiswal, Adv. with Respondent in person.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

1. The present appeal has been filed under Section 19 of the Family Court Act, 1984, assailing the Order dated 05.04.2022 ("Impugned Order") passed by learned Principal Judge, Family Court (South-East), Saket Courts, New Delhi in HMA No. 794 of 2019 titled as "***Vijay Kumar Batra vs. Meenakshi Batra***", whereby the application filed by the appellant/wife under Section 24 of the Hindu Marriage Act, 1955, ("HMA") seeking *pendent lite* maintenance was dismissed.

2. Briefly stated, the marriage between the appellant and the respondent/husband was solemnized on 16.10.1983 according to Hindu rites and ceremonies at Sector-22, Faridabad. Two children were born from the said wedlock in the years 1984 and 1988 and both have turned major. The appellant alleges that there was persistent discord in the marital relationship and that she was subjected to physical, mental and emotional abuse by the

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MAT.APP.(F.C.) 109/2022

Page 1 of 14



respondent. The matrimonial relationship deteriorated further in 2019. The appellant is stated to have filed a complaint under Section 489-A, Indian Penal Code, 1860 and a complaint under Section 12 of the Protection of Women against Domestic Violence Act, 2005, both against the respondent in the year 2019. As the matrimonial discord persisted and was escalating, the respondent left the matrimonial home in October 2019.

3. Thereafter, the respondent instituted proceedings under Section 13(1)(ia) of the HMA seeking dissolution of marriage on the ground of cruelty. Upon service of notice, the appellant entered appearance, filed her written statement and preferred an application under Section 24 of the HMA seeking *pendent lite* maintenance. The appellant denied the allegations of cruelty.

4. Before the learned Family Court, The respondent, in his income affidavit, disclosed that he was 61 years of age, a graduate and a retired Army officer. He disclosed his pensionary income of Rs. 90,952/- and stated that he was residing in rented accommodation at Faridabad. He further disclosed that his aged mother was suffering from cardiac and other old age ailments and was dependent on him. He also stated that he was suffering from acute hypertension and was running a training establishment under the name and style of “*Colonel's Learning Café*”. He disclosed ownership of a second-hand Toyota Corolla Altis and incurred expenditure towards fuel, insurance and club membership, and had made donations amounting to Rs. 60 lakh to various institutions. He further stated his monthly expenditure to be approximately Rs. 91,000/-.

5. The appellant in her income affidavit disclosed that she was an MA, B.Ed. and a retired Central Government teacher. She stated that the parties



had separated in December 2018 and that she was residing in the rented accommodation at Greater Kailash-I. She had no car or vehicle and was availing medical facilities through an ECHS-empaneled hospital. She also disclosed Rs. 12,500 per month expenditure towards holidays and vacations and stated that a liability of Rs. 50 lakh remained payable towards the Experion property at Gurugram, the total cost of which was stated to be Rs. 1.56 crore. She further stated that, following her retirement on 31.10.2019, she had been utilizing her savings as her pension was insufficient to meet her expenses.

6. The learned Family Court, while passing the Impugned Order noted that although the appellant had not initially disclosed in her income affidavit that she was a retired government employee, she had subsequently stated that she had retired on 31.10.2019 and was receiving a pension of Rs. 27,759/- per month. The Court further noticed her disclosure of income from other sources, including interest on fixed deposits, stated to be Rs. 3,10,124/- (whether monthly or annually, not mentioned). The Court also took note of the fact that a flat at Bangalore, jointly owned by the parties, had been sold for Rs. 94 lakh and that the appellant had received retirement benefits comprising GPF of Rs. 39,29,385/-, gratuity of Rs. 10,12,284/-, commutation of Rs. 14,17,890/-, leave encashment of Rs. 3,71,137/- and PPF of approximately Rs. 18 lakh. On this basis, the learned Family Court found that the appellant's retirement benefits exceeded Rs. 50 lakh. The learned Family Court further noted that both parties were above 60 years of age, had retired from service and were receiving pension. It was also noted that the children of the parties were well settled and were not dependent upon either parent. On an overall assessment, the Court concluded that the appellant's income could be stated



to be *if not greater than, at least equal to that of the respondent*. The learned Family Court dismissed the application of the appellant holding that both parties were equally qualified, had retired from Central Government service and had sufficient savings to sustain themselves. Aggrieved by the aforesaid order dated 05.04.2022, the appellant has preferred the present appeal.

7. The impugned order has been assailed by the appellant primarily on the ground that the learned Family Court has erred in assessing the respective financial capacities of the parties and in concluding that her income was, if not greater than, at least equal to that of the respondent. It is contended that the learned Family Court treated the appellant's retirement corpus and savings as a continuing source of income, without appreciating that the same represented her accumulated retiral benefits, which she was constrained to utilize towards her day-to-day expenses after retirement.

8. The appellant further contended that the learned Family Court failed to consider the respondent's assets and investments, his income from the training business being run under the name of "*Colonel's Learning Café*", as also the substantial financial transactions disclosed by him. It is further argued that the learned Family Court failed to assess the reasonable needs and expenses of the appellant, including her expenditure towards residence, and incorrectly proceeded on the premise that maintenance under Section 24 of the HMA is intended only for a lacking spouse. In these circumstances, the appellant prays that the present appeal be allowed and the impugned order be set aside and maintenance be awarded in her favour.

9. We have heard the learned counsel for the parties as well as parties present in person and perused the material placed on record.



10. At the outset, it is imperative to note the nature of the jurisdiction being exercised by this Court. The present proceedings arise under Section 19 of the Family Courts Act, 1984 and constitute an appeal against the order passed by the learned Family Court. The question before us is, therefore, whether the order under challenge, when tested against the statutory requirements of Section 24 of the HMA and the material available on record, warrants interference in appellate jurisdiction.

11. During the pendency of the present appeal, this Court, *vide* order dated 20.02.2023, directed the parties to place on record fresh affidavits disclosing their income, assets, expenditure and liabilities. Pursuant thereto, both parties filed fresh affidavits.

12. Section 24 enables the Court, in any proceeding under the Act, where it appears that either the wife or the husband has no independent income sufficient for his or her support and the necessary expenses of the proceeding, to direct the other spouse to pay the expenses of the proceeding and such monthly sum as may appear to the Court to be reasonable, having regard to the income of both the applicant and the respondent.

13. In ***Manish Jain v. Akanksha Jain*, (2017) 15 SCC 801**, the Supreme Court explained the nature of the discretion exercised under Section 24 as under:

“12. The Court exercises a wide discretion in the matter of granting alimony pendente lite but the discretion is judicial and neither arbitrary nor capricious. It is to be guided on sound principles of matrimonial law and to be exercised within the ambit of the provisions of the Act and having regard to the object of the Act. The Court would not be in a position to judge the merits of the rival contentions of the parties when deciding an application for interim alimony and would not allow its discretion to be fettered by the nature of the allegations made by them and would not examine the merits of the case. Section 24 of the HM Act lays



down that in arriving at the quantum of interim maintenance to be paid by one spouse to another, the Court must have regard to the appellant's own income and the income of the respondent.

15. Section 24 of the HM Act empowers the court in any proceeding under the Act, if it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of any one of them order the other party to pay to the petitioner the expenses of the proceeding and monthly maintenance as may seem to be reasonable during the proceeding, having regard to also the income of both the applicant and the respondent. Heading of Section 24 of the Act is “Maintenance pendente lite and expenses of proceedings”. The section, however, does not use the word “maintenance”; but the word “support” can be interpreted to mean as Section 24 is intended to provide for maintenance pendente lite.

16. An order for maintenance pendente lite or for costs of the proceedings is conditional on the circumstance that the wife or husband who makes a claim for the same has no independent income sufficient for her or his support or to meet the necessary expenses of the proceeding. It is no answer to a claim of maintenance that the wife is educated and could support herself. Likewise, the financial position of the wife's parents is also immaterial. The court must take into consideration the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent income sufficient for her or his support. Maintenance is always dependent upon factual situation; the court should, therefore, mould the claim for maintenance determining the quantum based on various factors brought before the court.

14. Further, in **Rajnish v. Neha, (2021) 2 SCC 324**, the Supreme Court laid down broad principles for determining maintenance and held as below:

“77. The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.



78. The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. [Refer to *Jasbir Kaur Sehgal v. District Judge, Dehradun*, (1997) 7 SCC 7; Refer to *Vinny Parmvir Parmar v. Parmvir Parmar*, (2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290]

79. In *Manish Jain v. Akanksha Jain* [Manish Jain v. Akanksha Jain, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the court should mould the claim for maintenance based on various factors brought before it.

80. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications. [*Reema Salkan v. Sumer Singh Salkan*, (2019) 12 SCC 303 : (2018) 5 SCC (Civ) 596 : (2019) 4 SCC (Cri) 339]



81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.”

15. The aforesaid principles make it clear that the determination under Section 24 is not a mathematical exercise. The Court is not required to simply compare the income of the spouses and award the difference to the spouse having the lesser income. At the same time, the Court cannot disregard the relative financial position of the parties, their reasonable needs and the capacity of the spouse from whom maintenance is claimed.

16. It is settled that object of Section 24 of HMA is to avoid vagrancy but it is not meant to equalize the income of the wife with that of the husband. A co-ordinate Bench of this Court has observed in **K.N. v. R.G., (2019) SCC OnLine Del 7704**

“12. The provisions of this section are not meant to equalize the income of the wife with that of the husband but are only to see that when divorce or other matrimonial proceedings are filed, either of the party should not suffer because of paucity of source of income and the maintenance is then granted to tie over the litigation expenses and to provide a comfortable life to the spouse. Where, however, both the spouses are earning and have a good salary, merely because there is some salary difference cannot be a reason for seeking maintenance.”



17. In the present case, the fresh affidavit filed by the appellant discloses pensionary income of approximately Rs. 35,329 per month. She has also disclosed income from interest of Rs. 34,000 per month out of her investments. On the basis of her own disclosure, therefore, her recurring monthly income is approximately Rs.69,000/-, before taking into account any applicable deductions. The appellant has also disclosed the retiral benefits received by her during her service, including GPF, gratuity, commutation of pension and leave encashment, besides PPF and other investments.

18. In considering these assets, a distinction has to be made between the retirement *corpus* and the income generated from that *corpus*. The retirement *corpus* is accumulated capital. It cannot, merely because it is substantial, be treated as if it were a monthly income. A retired person cannot be expected to consume his or her retirement savings merely for the reason that such savings exist. At the same time, where the retirement savings are invested and generate interest or other returns, such recurring returns are income and have to be considered. The question before the Court is, therefore, not whether the appellant has a substantial retirement *corpus*, but whether she has sufficient recurring income and financial resources to meet her reasonable needs.

19. The Family Court, while considering the appellant's financial position, placed considerable reliance upon her retiral benefits and investments. To that extent, the approach requires some clarification. The entire retiral *corpus* cannot be treated as recurring monthly income. What can be taken into account as income is the interest or other return actually generated from those investments.

20. However, the existence of a retirement *corpus* is not completely irrelevant. It forms part of the overall financial circumstances of the appellant.



The Court is entitled to consider the financial resources available to her while deciding whether she is in a position to support herself. What the Court cannot do is to treat the *corpus* itself as though it were a recurring salary.

21. The appellant has relied upon her monthly expenditure, which according to her affidavit is approximately Rs. 1,16,150/-, apart from litigation expenses. The mere assertion of an expenditure figure, however, cannot be treated as conclusive. Section 24 requires the Court to determine the reasonable needs of the applicant. The assessment necessarily has to take into account the age of the parties, their present circumstances, their established standard of living, their medical requirements, residential expenses and other genuine necessities.

22. The fact that a particular expenditure has been disclosed in an affidavit does not make the expenditure, by itself, an expenditure which the other spouse is statutorily liable to fund. The Court has to distinguish between expenses which are necessary for reasonable support and expenses which represent discretionary expenditure or a manner of deployment of one's resources which cannot automatically be fastened upon the other spouse.

23. In the present case, the appellant is a retired Central Government employee and receives a regular pension. She has also disclosed recurring income by way of interest on her investments. She has no dependent child. She has further disclosed access to medical facilities through an ECHS-empanelled hospital. These circumstances do not mean that the appellant has no financial needs; they are relevant, however, in assessing whether her independent income and available resources are sufficient for her reasonable support during the pendency of the matrimonial proceedings.



24. The financial position of the respondent-husband also requires consideration alongside. His fresh affidavit discloses a pension of approximately Rs. 1,09,000/- per month. He has also disclosed investments of approximately Rs. 73 lakh in shares, mutual funds and bonds and approximately Rs.16.50 lakh in PPF. The respondent's pension is admittedly higher than the recurring income of the appellant. This fact is relevant, but it is not by itself sufficient to grant maintenance. Section 24 does not proceed on the principle that whenever one spouse earns more than the other, the spouse earning less must necessarily be paid maintenance. The respondent has also disclosed that his mother is about 87 years of age and is dependent upon him. He has stated that he incurs expenditure towards her maintenance and medical needs. This is a relevant obligation and has to be taken into account while considering his capacity to pay.

25. The appellant has also referred to the respondent's investments, his expenditure on the vehicle, club expenses, donations and the "*Colonel's Learning Café*". According to the appellant, these circumstances show that the respondent has greater financial resources than what has been disclosed. The Court has considered this submission. However, there must be some material on record before an additional recurring income can be attributed to a party. The mere existence of an activity or establishment in the past cannot, by itself, establish that the respondent is presently earning a particular amount from it.

26. The respondent has stated in his fresh affidavit that the "*Colonel's Learning Café*" is no longer generating income. In the absence of material showing a continuing income from the said activity, it would not be



appropriate for the Court to assume a monthly income from that source merely on the basis of an allegation.

27. At the same time, this Court is conscious of the principle laid down in ***Rajnesh v. Neha, (2021) 2 SCC 324***, that where complete financial disclosure is not made, the Court may, in an appropriate case, make a reasonable assessment of income. But such assessment must have some basis in the material on record. It cannot be founded only on suspicion or conjecture. In the present case, we do not find sufficient material to conclude that the respondent is presently receiving a regular income from the said establishment apart from his pension and disclosed investments.

28. The appellant has also relied upon the donations allegedly made by the respondent. Such expenditure may be relevant while considering the overall financial status of a party. However, expenditure on donations cannot, by itself, be treated as proof of an undisclosed recurring source of income.

29. The central question, therefore, remains whether, on an overall assessment of the financial circumstances of both parties, the appellant has sufficient independent income and resources for her reasonable support and the necessary expenses of the matrimonial proceedings. The appellant has disclosed recurring income of approximately Rs.69,000/- per month from pension and interest. She also has accumulated savings and investments. She has no dependent children. The respondent, on the other hand, has a higher pension and substantial investments, but also has his own reasonable expenses and the obligation towards his aged mother. The fact that the appellant's disclosed expenditure exceeds her recurring income cannot, by itself, lead to the conclusion that she is entitled to maintenance under Section 24. The expenditure claimed must first be assessed for reasonableness.



Section 24 is intended to secure reasonable support and the necessary expenses of litigation; it does not contemplate reimbursement of every item of expenditure disclosed by the claimant irrespective of its nature or necessity.

30. Conversely, the mere fact that the appellant has savings or investments cannot, by itself, disentitle her from claiming maintenance. The nature of those assets, the income actually generated from them and the reasonable needs of the claimant must be considered in conjunction.

31. Likewise, the respondent's higher income cannot, by itself, result in an order of maintenance. The financial capacity of the respondent is relevant because Section 24 expressly requires regard to be had to the income of both parties, but the statutory threshold remains whether the applicant has sufficient independent income for her support and the necessary expenses of the proceeding.

32. On an overall assessment, the appellant's financial position is materially different from that of a spouse who has no income or independent means of support. She has a regular pension, recurring investment income and accumulated financial resources. The material placed before us does not establish that, notwithstanding these resources, she is without sufficient means for her reasonable support during the pendency of the matrimonial proceedings.

33. We are, therefore, satisfied that the appellant does not satisfy the statutory requirement under Section 24 of having no independent income sufficient for her support and the necessary expenses of the proceedings.

34. In the conspectus of the case, we do not affirm the Impugned Order on the reasoning that the appellant's entire retiral *corpus* constitutes her income. Nor do we affirm it on the proposition that maintenance is unavailable merely



2026:DHC:8890-DB



because the applicant has some independent income or because the incomes of the parties are comparable.

35. Applying correct test under Section 24 to the present case, we find that the appellant has sufficient independent income and resources for her reasonable support during the pendency of the matrimonial proceedings. The higher pensionary income of the respondent, considered in isolation, does not warrant a different conclusion.

36. We accordingly hold that although the reasoning adopted by the learned Family Court, particularly insofar as it treated the parties' comparative income and retiral *corpus* as determinative considerations, cannot be endorsed in its entirety, the ultimate conclusion dismissing the appellant's application under Section 24 of the HMA does not call for interference.

37. For the aforesaid reasons, the present appeal is dismissed. Pending application(s), if any, also stand disposed of. There shall be no order as to costs.

VIVEK CHAUDHARY
(JUDGE)

RENU BHATNAGAR
(JUDGE)

OCTOBER 08, 2026

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