



2025:DHC:11985



\$~28 & 29

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: December 23, 2025***+ **CRL.REV.P. 768/2023**

MRS DEVIKA JAIN

.....Petitioner

Through: Mr. Rajinder Juneja, Adv.

versus

SIDHARTH JAIN

.....Respondent

Through: Mr. Syed Kamran Ali and
Mr. Yusuf Khan, Adv.+ **CRL.REV.P.(MAT.) 169/2025 & CRL.M.A.
11305/2025, CRL.M.A. 11306/2025, CRL.M.A.
17129/2025**

MR SIDHARTH JAIN

.....Petitioner

Through: Mr. Syed Kamran Ali and
Mr. Yusuf Khan, Adv.

versus

MRS. DEVIKA JAIN

.....Respondent

Through: Mr. Rajinder Juneja, Adv.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present revision petitions have been filed assailing the Order dated 18.05.2023 (hereinafter '**impugned order**'), passed by the learned Family Court in MT No. 330/2022 *vide* which Mrs. Devika Jain/Wife was awarded interim maintenance in the sum of Rs. 50,000/- per month, directed to be paid by Mr. Sidharth Jain/Husband.



2. Further, the Husband/Mr. Sidharth has also challenged the Order dated 21.03.2024, *vide* which the application filed by the Husband/Mr. Sidharth seeking re-call of the impugned order was dismissed by the learned Family Court.

3. The Petition bearing *CRL.REV.P. 768/2023* has been filed by the Wife/Mrs. Devika Jain, seeking enhancement of the maintenance amount on the following grounds: -

a. Husband/ Mr. Sidharth is working as Software Engineer, SDE-II, on the payroll of Amazon. Com Services LLC which has its registered office at 202 Estlake Ave N Seattle WA 98109. He was earning \$150300 per annum as on October 2021 and his current salary is \$232000 i.e. Rs. 1,76,32,000/- p.a. which means that he is earning about Rs. 14,61,000/- per month.

b. She has no source of income and is not gainfully employed, since she left her job around December 2021. Further, the husband does not have any other dependants apart from his wife.

4. *Per contra*, the Petition bearing *CRL.REV.P.(MAT.) 169/2025* has been filed by the Husband/Mr. Sidharth Jain, seeking reduction of the amount of maintenance granted on the following grounds: -

a. Wife/Mrs. Devika Jain is a highly qualified lady and has completed her BE (IT) from DTU Delhi, and has the capacity to earn handsomely. She was employed with Bank of America and was drawing income of Rs.



9,00,000/-, but has deliberately left her job and has chosen to remain unemployed.

5. Submissions heard and the material placed on record perused.

6. As per record, **Crl. M.A.11305/2025**, seeking condonation of delay of 679 days in filing CRL.REV.P.(MAT.) 169/2025, had been filed by the Husband/Mr. Sidharth Jain. The delay in filling is attributed to the erstwhile counsel and the fact that the Petitioner is residing in USA. Though this Court had noted its dissatisfaction with the above reasons in its Order dated 18.09.2025, however, in view of the nature of the proceedings, deems it appropriate to advert to the merits of the present case.

7. At the outset, it is apposite to reiterate that the object of granting maintenance is to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support.

8. Further, in **Bhagwan Dutt v. Kamla Devi : (1975) 2 SCC 386**, it has been observed that the wife should be in a position to maintain a *standard of living* which is neither luxurious nor penurious *but what is consistent with status of a family*. The expression "*unable to maintain herself*" does not mean that the wife must be absolutely destitute before seeking maintenance.

9. It is also trite law that a husband cannot shirk his sacrosanct duty to financially support his wife [Ref: **Shamima Farooqui v. Shahid Khan : (2015) 5 SCC 705**].

10. In the present case, it has been recorded in the impugned order that the Husband/Mr. Sidharth has failed to file his Written



Statement and had not even furnished his detailed Income Affidavit, in view of which his defence was struck off.

11. The learned Family Court, therefore, proceeded to make a *prima facie* assessment of the interim maintenance, on the basis of the material placed on record by the Wife and the admitted position regarding the employment of the parties.

12. It stands admitted that the Husband is gainfully employed with Amazon. Com Services LLC as Software Engineer, SDE-II and he has also not denied that he is residing in the United States of America. It also stands admitted that the Wife is unemployed and the Wife had specifically asserted that her Husband has been earning approximately Rs. 1,76,00,000/- per annum.

13. The Wife/Mrs. Devika has also placed on record an Affidavit dated 09.09.2025, in the present proceedings and the submissions therein regarding the Income of her Husband/Mr. Sidharth and the conversion rates prevailing at the relevant time are summarized as under: -

S. No.	Particulars	Amount in USD	Conversion Rate as on 18.05.2023	Amount in INR per month
1.	Gross Pay as per statement dated 30.07.2021	\$12,525 (p.m.)	82.4783	Rs. 10,33,040/-
2.	Base Pay as per Certificate dated 06.10.2021	\$1,50,300 (p.a.)	82.4783	Rs. 10,33,040/-
3.	IRS Tax Return- Total Income (year ending 31.12.2021)	\$2,94,191	82.4783	Rs. 20,22,031/-

14. Additionally, the Wife has also placed on record the Affidavit of Income, Assets and Liabilities, dated 17.05.2024,



filed the Husband/Mr. Sidharth in proceedings under the Protection of Women against Domestic Violence Act, 2005, which discloses his monthly income as \$10,000 after taxes.

15. Hence, considering the totality of the circumstances and the admitted positions, it emerges that the interim maintenance of Rs. 50,000/- per month awarded by the learned Family Court, does not appear to be commensurate with the Husband's earning capacity or the status of the parties.

16. At this juncture, this Court finds it apposite to mention that the determination of interim maintenance is not an exercise capable of mathematical precision. More often than not, particularly in cases where one of the spouses is employed abroad and has failed to place complete and candid disclosure of income before the Court, the assessment necessarily involves a degree of estimation and informed guesswork. This Court is not expected to embark upon a roving or final inquiry at the interim stage, and is rather required to arrive at a reasonable figure on the basis of available material, surrounding circumstances, lifestyle indicators and the admitted earning capacity of the earning spouse.

17. This Court in **K.N. v. R.G. : 2019 SCC OnLine Del 7704** when deciding the question of grant of interim maintenance to the wife whose husband was employed at a very senior position in a company at *Singapore* and was earning in foreign currency which after conversion were about ₹13 lakhs per month, observed as under:

"10.We cannot agree with the contention of the



*appellant that merely because the respondent is earning in 'dollars' she is entitled to the maintenance claimed by converting his salary in dollars into Indian rupees. We agree with the respondent that his expenditure being in dollars, the salary being in dollars is a fact which cannot be overemphasized. We are supported in our view by a judgment of this court in **Bindu Chaudhary v. Deepak Suga reported at (2016) 234 DLT 108 (DB)**, where this court has held that if a person is employed in Dubai and earns in currency of that country, then he also spends in that currency. So, it is not open to the wife to convert his income in Indian currency and seek enhancement. The relevant para of the said judgment is extracted herein:*

"9. If a person is working in Dubai, he earns in the currency of that country and spends also in that currency. So it is not open to the wife to just convert his income in Indian currency and then seek enhancement. The Court has to consider the cost of living as per the living standards in country where he is employed."

11. The respondent is thus justified in his submission that the courts will have to consider the cost of living as per the living standard in the country where he is employed and mere earning 'dollars' cannot be the sole criteria to award exorbitant maintenance in favour of other spouse. Thus, this contention of the appellant does not appeal to this court and is hereby rejected. "

(emphasis supplied)

18. In the present case, it is undisputed that the husband is earning in foreign currency and is residing in the United States of America. Consequently, he is also required to incur expenses in foreign currency, and the standard as well as the cost of living in the USA cannot be equated with that prevailing in Delhi. While this Court is conscious of the sacrosanct duty of a husband to maintain his wife, such obligation cannot be construed to mean that the entirety of the husband's income is liable to be equalised or proportionately mirrored in the amount of maintenance



payable to the wife. Mere earning in foreign currency does not, by itself, entitle the wife to claim maintenance by mechanically converting the husband's foreign income into Indian currency and applying the formulae evolved by Indian courts without due regard to the attendant circumstances.

19. Accordingly, having regard to the totality of the facts and circumstances of the case, and considering that the wife is admittedly not gainfully employed, this Court deems it appropriate to enhance the interim maintenance from Rs. 50,000/- per month to Rs. 1,00,000/- per month, based on a broad, reasonable, and rounded-off assessment. The enhanced interim maintenance shall be payable from the date of filing of the application for interim maintenance, subject to adjustment of any amount already paid.

20. Insofar as the contention regarding the Wife's educational qualifications and previous employment is concerned, it is well settled that mere capacity to earn cannot be equated with actual earnings. When it is admitted that the wife is not gainfully employed, the question whether she deliberately remained unemployed to extract maintenance, can only be ascertained after evidence is led by both the parties.

21. At the stage of interim maintenance, the Court is required to consider the present financial position of the parties and not indulge in conjectures as to possible income prospects of the wife. Even otherwise, the burden of proving financial independence lies with the husband, and such contentions are a subject matter of trial.



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22. It is not disputed that the impugned order is only an order of interim maintenance. The other defences raised by the parties along with the allegations and counter allegations, would be the subject matter of trial, and would have to be decided after the parties have led their evidence.

23. The learned Trial Court is directed to pass the final order uninfluenced by the observations made in this order.

24. The enhanced amount of interim maintenance of Rs. 1,00,000/- per month, shall be payable by the Husband/Mr. Sidharth from the date of filing of the application for interim maintenance, subject to adjustment of amount already paid.

25. The arrears, if any, shall be cleared by the Husband/Mr. Sidharth within 12 weeks from date.

26. The amount deposited by the Husband/Mr. Sidharth Jain before this Court as arrears of maintenance, be released in favour of the Wife/Mrs. Devika Jain.

27. In view of the above, the Petition filed by the Wife/ Mrs. Devika Jain bearing *CRL.REV.P. 768/2023* is allowed and the Petition filed by the Husband/Mr. Sidharth Jain bearing *CRL.REV.P.(MAT.) 169/2025* is dismissed.

28. The pending application(s), if any also stand disposed of.

29. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

DECEMBER 23, 2025

'KDK'

Signature Not Verified

Signed By: DEEPA ANSHU
Signing Date: 27.12.2025
16:48:22

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