



2026:DHC:1380



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

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Judgment reserved on: 19.11.2025
Judgment pronounced on: 16.02.2026
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CRL.REV.P. 718/2024 & CRL.M.A. 16466/2024

.....Petitioner

Through: Mr. Deepak Tyagi and Mr.
Ishaan Seth, Advocates.

versus

.....Respondent

Through: Mr. Atul Chaubey and Mr.
Chandan Sharma, Advocates.

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CRL.REV.P. 926/2024 & CRL.M.A. 21142/2024

.....Petitioner

Through: Mr. Atul Chaubey and Mr.
Chandan Sharma, Advocates.

versus

.....Respondent

Through: Mr. Deepak Tyagi and Mr.
Ishaan Seth, Advocates.

+

CRL.REV.P. (MAT.) 45/2025 & CRL.M.A. 2519/2025

.....Petitioner

Through: Mr. Deepak Tyagi and Mr.
Ishaan Seth, Advocates.

versus

.....Respondents



Through: Mr. Atul Chaubey and Mr.
Chandan Sharma, Advocates.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

J U D G M E N T

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DR. SWARANA KANTA SHARMA, J.

1. These three revision petitions arise out of matrimonial disputes between the husband, _____ and the wife, _____ and pertain to orders passed in relation to the grant or denial of maintenance in favour of the wife and the minor child of the parties. Since the issues involved in all the three petitions are inter-connected and arise from common facts, the same are being decided by this Court by way of the present common judgment.

FACTUAL BACKGROUND

2. Briefly stated, the facts of the case are that the parties were first married on 22.06.2012 at Arya Samaj Mandir, Jamuna Bazaar, Delhi. Thereafter, on 15.02.2013, the parties again solemnised their marriage in accordance with Hindu rites and customs at Kashipur, Uttarakhand. Between February 2013 and December 2015, the parties resided together at Durgapur, West Bengal, where the husband was employed. It is stated that in the year 2015, the parties also adopted a male child. Subsequently, in February 2016, the parties shifted to Kuwait, as the husband secured employment with Kuwait Oil Corporation. It is stated that during this period, the parties used to visit India from time to time. In February 2020, the parties returned to India along with their son; however, they were unable to return to Kuwait due to the outbreak of the Covid-19 pandemic. It is alleged that on 18.08.2020, the husband deserted the wife and the minor son and left for Kuwait. Aggrieved by the conduct of her husband, the wife alleges that she was subjected to acts of cruelty at



his hands in the past also. In this backdrop, she initially lodged complaints against the husband at Police Station Mohan Garden, Delhi and before the CAW Cell, Dwarka.

3. Thereafter, in June 2021, the wife filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'], seeking maintenance of ₹2.5 lakhs per month for herself and the minor son, which was registered as MT No. 329/2021.

4. On 03.09.2021, the wife also filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 [hereafter '*PWDV Act*'], which was registered as MC No. 567/2021.

5. Before this Court, CRL.REV.P. 718/2024 filed by the husband and CRL.REV.P. 926/2024 filed by the wife arise out of the proceedings under the PWDV Act, *whereas* CRL.REV.P. (MAT.) 45/2025 filed by the husband pertains to the proceedings under Section 125 of the Cr.P.C.

Proceedings under the PWDV Act

6. The complaint under Section 12 of the PWDV Act filed by the wife was first taken up on 04.09.2021 by the learned Metropolitan Magistrate, Mahila Court-05, Dwarka Courts, Delhi [hereafter '*Magistrate*'], pursuant whereto the Domestic Incident Report (DIR) was called for and thereafter filed by the Protection Officer. On 30.10.2021, summons were issued to the husband, who was arrayed as respondent no. 1 in the said complaint. *Vide* order dated 05.01.2022, both the parties were directed to file their Affidavits of Income and Assets along with copies of their bank account



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statements and Income Tax Returns (ITRs) for the last three years. The parties thereafter placed the relevant documents on record.

7. On 22.10.2022, the learned Magistrate directed the husband to pay ad-interim maintenance of ₹10,000/- per month towards the minor child, along with payment of his school fees.

8. Thereafter, *vide* order dated 20.04.2023, the learned Magistrate, while deciding the application for interim relief under Section 23 of the PWDV Act, awarded interim maintenance of ₹10,000/- per month to the minor child. The said amount was exclusive of expenses towards school fees, uniform, and other allied charges, which were also directed to be borne by the husband. However, no interim maintenance was granted to the wife on the ground that she was able-bodied and well-educated but had chosen not to seek employment and had instead opted to remain dependent upon the husband. It was further observed that the wife had not disclosed complete details regarding her financial capacity.

9. Aggrieved by the said order, the wife preferred an appeal under Section 29 of the PWDV Act, being Criminal Appeal No. 255/2023. *Vide* order dated 31.01.2024, the learned Additional Sessions Judge-03 & Special Judge (Companies Act), South West, Dwarka Courts, Delhi [hereafter '*Appellate Court*'], partly allowed the appeal. The interim maintenance payable to the minor child was enhanced from ₹10,000/- to ₹50,000/- per month from the date of filing of the petition till the date of the order, and further enhanced to ₹60,000/- per month from the date of the order till disposal of the



petition. Interim maintenance to the wife, however, was again declined by the Appellate Court, observing that she had filed bank account statements only for the last two years instead of three years, and therefore, her actual income could not be properly assessed.

10. It is the aforesaid order dated 31.01.2024, passed by the learned Appellate Court in Criminal Appeal No. 255/2023, which has been assailed before this Court by both the parties. In CRL.REV.P. 718/2024, the husband is aggrieved by the enhancement of interim maintenance payable to the minor son from ₹10,000/- to ₹50,000/- per month from the date of filing of the petition till the date of the order, and further to ₹60,000/- per month from the date of the order till disposal of the petition. In CRL.REV.P. 926/2024, the wife is aggrieved by the denial of interim maintenance in her favour.

Proceedings under Section 125 of the Cr.P.C.

11. The petition under Section 125 of the Cr.P.C. was first taken up for hearing on 30.06.2021 by the learned Judge, Family Courts, Dwarka, Delhi [hereafter '*Family Court*']. Both the parties filed their respective affidavits of income. On 08.12.2021, the learned Family Court observed that during the period between August 2020 and January 2021, there was an admitted transfer of ₹8.4 lakhs from the husband to the wife, though no payments had been made thereafter. Upon a statement being made by the husband that he would deposit a sum of ₹1.5 lakhs in the bank account of the wife within three days, the parties were referred to counselling. The counselling, however, did not yield any settlement.



12. Consequently, *vide* order dated 17.05.2024, the learned Family Court granted interim maintenance of ₹50,000/- per month to the wife and ₹40,000/- per month to the minor child.

13. The aforesaid order dated 17.05.2024 has been assailed by the husband before this Court by way of CRL.REV.P. (MAT.) 45/2025.

SUBMISSIONS BEFORE THE COURT

A. Submissions *qua* orders passed under proceedings in PWDV Act Submissions on behalf of the wife

14. The learned counsel appearing for the wife argues that the impugned order passed by the learned Appellate Court is erroneous, suffers from non-application of mind, and warrants interference by this Court. It is submitted that while the learned Appellate Court has itself recorded a *prima facie* finding that the wife was subjected to domestic violence and is entitled to interim relief, it has nevertheless failed to grant any interim maintenance to her. It is contended that the denial of interim maintenance is based on an incorrect assessment of the income affidavit and bank statements filed by the wife and on submissions made on behalf of the husband which were factually incorrect. The learned counsel submits that the finding that the wife was working with Lakme and receiving income is wholly misconceived. Attention is drawn to the relevant bank entries to show that on 06.11.2020, the wife had made a payment of ₹27,140/- to Lakme through her debit card, which transaction was initially reversed and the amount refunded, followed by a fresh payment of



the same amount on the same day. It is submitted that these entries do not reflect any receipt of income from Lakme but only payments made by the wife towards a course. It is, therefore, argued that the conclusion drawn by the learned Appellate Court regarding the wife's income is factually incorrect.

15. It is further contended that the learned Appellate Court has wrongly held that the wife failed to comply with the directions of the Hon'ble Supreme Court with regard to filing of three years' bank account statements. The learned counsel submits that the wife had filed her bank account statements from 14.09.2020 till 01.08.2022, which was sufficient in the facts of the case, as prior thereto the parties were residing together and the wife was entirely dependent on the husband even for day-to-day expenses. It is argued that the wife did not have any independent bank account prior to that period and that the adverse inference drawn by the learned Appellate Court is unjustified. The learned counsel further submits that the observation of the learned Appellate Court that the wife had not approached the Court with clean hands is also incorrect. It is stated that all relevant facts and documents were placed on record and nothing was concealed.

16. It is also argued that the learned Appellate Court erred in factoring the alleged dependency of the widow sister and her children while apportioning income. It is submitted that neither the widowed sister nor her children are financially dependent, which is evident from the bank statements, as no regular financial support is shown to



have been extended to them. It is also pointed out that they do not reside with the husband and that the children of the widow sister have already received government compensation.

Submissions on behalf of the husband

17. On the other hand, the learned counsel appearing for the husband contends that the learned Appellate Court has failed to appreciate the settled principles governing maintenance. It is argued that the object of maintenance proceedings is not to punish a person for past conduct, but to prevent vagrancy by ensuring support to those who are unable to maintain themselves. It is argued that in the present case, the wife is capable of maintaining herself and contributing towards the expenses of the child.

18. It is further contended that under the law, the initial burden lies on the wife to establish that she is unable to maintain herself. The learned counsel submits that despite unexplained entries in the bank account, being qualified as a beautician, and leading a comfortable lifestyle, no responsibility towards the child's expenses has been shown to have been shouldered by the wife, even though the husband has somehow continued to meet the educational expenses of the child.

19. The learned counsel further submits that the learned Appellate Court has failed to appreciate that the learned Magistrate had passed a well-reasoned order dated 20.04.2023, which adequately took care of the day-to-day needs of the child. It is submitted that the learned Magistrate had directed payment of school fees, books, uniform,



transportation, extracurricular expenses, and an additional amount of ₹10,000/- per month towards the child's expenses. It is argued that there was no justification for the learned Appellate Court to doubt the reasoning of the learned Magistrate.

20. It is also submitted that the enhancement of maintenance for the child by the learned Appellate Court was done in a mechanical manner, without due consideration of the peculiar facts of the case. It is argued that while the Hon'ble Supreme Court has repeatedly cautioned against a straight-jacket formula in maintenance matters, the learned Appellate Court has proceeded to mechanically divide income as if the matter was being finally decided.

B. Submissions *qua* order passed under proceedings in Section 125 of the Cr.P.C.

Submissions on behalf of the husband

21. The learned counsel appearing for the husband contends that the learned Family Court has failed to appreciate that the jurisdiction for grant of maintenance under Section 125 of the Cr.P.C. and under the PWDV Act is parallel in nature, and once interim maintenance had already been adjudicated upon under the PWDV Act on the same set of facts and material, there was no necessity for the learned Family Court to re-adjudicate the issue of interim maintenance afresh.

22. It is further argued that the learned Family Court has failed to apply the principles laid down by the Hon'ble Supreme Court, that the object of maintenance proceedings is not to punish a person for



past conduct but to prevent vagrancy by compelling those who are capable to support those who are unable to maintain themselves. It is submitted that in the present case, the wife is competent to maintain herself and to contribute towards the expenses of the child, particularly when the husband has been bearing the school fees and other related expenses.

23. The learned counsel further submits that while granting maintenance to the child, the learned Family Court ought to have taken into consideration the order already passed by the learned Appellate Court in the proceedings under the PWDV Act, even if the said order is being challenged. It is argued that instead of enhancing the maintenance payable to the child, the learned Family Court should have harmonised the relief by adjusting or setting off the amounts already directed to be paid. It is further contended that the learned Appellate Court under the PWDV Act had assessed the capacity of the wife to maintain herself, which aspect was not duly considered by the learned Family Court.

24. It is also argued that the learned Family Court has failed to recognise that the responsibility of raising the child is a joint responsibility. It is contended that the wife is able-bodied and skilled, and therefore equally responsible for sharing the expenses of the child, particularly when she is residing in and enjoying the only family house in Delhi NCR. In contrast, it is submitted that the husband has been subjected to multiple litigations and is constrained to stay either with friends or in hotels while contesting the



proceedings.

Submissions on behalf of the wife

25. *Per contra*, the learned counsel appearing for the wife supports the order passed by the learned Family Court and submits that the same is just, fair, and based on a correct appreciation of the material on record. It is argued that the learned Family Court has rightly held that the wife has no independent source of income, while the husband is earning a substantial amount abroad.

26. It is further submitted that the learned Family Court has carefully considered the financial capacity of the husband, the absence of any proven earnings of the wife, and the needs of the minor child, and has arrived at a reasonable quantum of interim maintenance. It is contended that the mere existence of proceedings under the PWDV Act does not bar the learned Family Court from exercising its jurisdiction under Se+5 of the Cr.P.C., particularly when the reliefs granted under both statutes are distinct and serve the object of preventing destitution. It is therefore argued that the order passed by the learned Family Court strikes a proper balance between the rights and obligations of the parties and does not call for any interference by this Court.

ANALYSIS & FINDINGS

27. The common questions which arise for consideration and are central to the adjudication of the present three revision petitions are as under:



(i) Whether the wife has any independent source of income and, if so, whether she is entitled to the grant of maintenance?

(ii) Whether the income of the husband has been correctly assessed and appropriately apportioned between the wife and the minor child for the purpose of maintenance?

A. Whether the wife has any independent source of income and, if so, whether she is entitled to the grant of maintenance?

Denial of maintenance to the wife by the learned Magistrate

28. In the present case, this Court notes that the learned Magistrate has denied interim maintenance to the wife on multiple grounds. For reference, the observations of the learned Magistrate are set out below:

“12. Thus, the intention of the legislation is never to encourage willful unemployment and unnecessary dependence on the husband. In the present case, the complainant has claimed that she is unemployed. However, her statement of account shows otherwise. She has frequent transactions in her bank account involving large sums of money, often in the hundreds and thousands of rupees. Additionally, she engages in cash transactions involving similarly high amounts. In her previous income affidavit, she has stated that the respondent had illegally transferred one property which was in her name and was gifted by her father. However, she has not specified the details of this property in the column i.e., 'Details of transfer deeds or transactions of alienation of properties previously owned by the applicant, executed during the subsistence of marriage, which was meant for this purpose. She also failed to rectify this mistake as early as possible. She has also stated to have borrowed loans of around Rs.20,00,000/-, the details of which has again not been disclosed. She has also not disclosed the sources of borrowing loan and on what basis the loan was



granted to her as she has claimed to be unemployed.

13. In view of the aforesaid discussion, I am of the considered opinion that the complainant is able-bodied and well educated however, she has chosen not to seek employment and instead be a dependent on her husband. She has also materially concealed her income and assets and has not disclosed the complete facts before the court. The complainant ought to have filed an additional affidavit in order to bring correct facts before the court. Therefore, I am not inclined to grant any maintenance to the complainant in view of her conduct and considering her capacity to earn.”

29. Firstly, the learned Magistrate has observed that although the complainant claimed to be unemployed, her bank account statements indicated otherwise, as they reflected frequent transactions involving large sums of money, often running into hundreds and thousands of rupees. *In this regard*, this Court has perused the bank account statements of the wife which were placed on record before the learned Magistrate. A careful examination thereof reveals that the so-called large amounts primarily pertain to transfers made by the husband into the bank account of the wife during the period between August 2020 and January 2021. Against each such transaction, the purpose of transfer has also been specifically mentioned. These include a transfer of ₹2 lakhs towards a make-up artist course, transfers of ₹1 lakh each on three occasions towards monthly expenses for November 2020, December 2020 and January 2021, and an amount of ₹50,000/- towards monthly expenses for September 2020. Thus, it is evident that the amounts paid by the husband to the wife after he had left the wife and the minor son in India and returned alone to Kuwait, have been treated as the wife’s income and made the



basis for doubting her claim of unemployment. Such an approach, in the considered view of this Court, is wholly misplaced.

30. The learned Magistrate has further observed that “additionally, she engages in cash transactions involving similarly high amounts.” This Court is unable to discern from the record as to the basis of this observation or as to how the learned Magistrate arrived at the conclusion that the wife was engaging in cash transactions involving such high amounts. No material was placed on record by either of the parties which could have invited such an observation from the learned Magistrate.

31. The learned Magistrate has next noted that the wife, in her earlier income affidavit, had mentioned that the husband had illegally transferred a property which stood in her name and had been gifted to her by her father, without providing details thereof. In this regard, this Court is of the view that such an averment by the wife could be in the nature of an allegation of economic abuse and illegal alienation of her property by the husband. Whether such allegation is ultimately proved or not is a matter to be examined during trial. However, the same had no bearing whatsoever on the question as to whether the wife was earning any income or was capable of maintaining herself, so as to disentitle her to interim maintenance.

32. Similarly, the learned Magistrate has also observed that the wife in her later income affidavit had disclosed that she had obtained loans of approximately ₹20 lakhs, without furnishing complete details regarding the source of such loans or the basis on which the



same were granted, particularly when she claimed to be unemployed. On this aspect as well, this Court is of the view that the wife had specifically stated in her income affidavit that she had obtained loans amounting to about ₹19.5 lakhs from her friends and family members. Even otherwise, the fact that the wife had to borrow money from her friends and relatives could not be considered as a factor for deciding her earning/income so as to deny her interim maintenance.

33. Further, the inference sought to be drawn that a person who has no earning capacity could not have been extended financial assistance by way of loans is misplaced in the given facts and circumstances. It is a matter of common experience, particularly in the Indian social context, that a daughter who has been deserted by her husband often returns to her parental home, and in such circumstances, parents and close family members do not abandon her or her children merely on the ground that she may not have an immediate source of income or because her husband has refused to maintain her. Financial assistance in such situations is often extended out of familial responsibility and support, and not after assessing the daughter's capacity to repay the amount to them in future. Thus, the mere fact that the wife claimed to have received financial assistance/loans from her parents or relatives in a time of need cannot be construed as evidence of her financial independence or earning capacity nor can it be treated as a false or misleading disclosure. The observations made by the learned Magistrate on this count were, therefore, unwarranted.



34. It is on the aforesaid grounds, coupled with the reasoning that the complainant was an able-bodied and well-educated woman who had chosen not to work and instead remain dependent upon her husband, that interim maintenance was declined in her favour. This Court is clearly of the view that the reasoning adopted by the learned Magistrate borders on perversity, as the same also runs contrary to settled principles laid down by the Hon'ble Supreme Court as well as this Court governing the grant of maintenance and interim maintenance.

35. It has been consistently held by the Hon'ble Supreme Court that there is a clear distinction between the – capacity to earn and actual earning – and merely because a wife is capable of earning cannot be a ground to deny maintenance in the absence of any proof of actual income. It has further been emphasised by the Courts that even where a wife earns some income, the Court must assess whether such income is sufficient for her sustenance and enables her to live in a manner commensurate with the status she would have enjoyed in the matrimonial home.

36. In this regard, this Bench in *Tasmeer Qureshi v. Asfia Muzaffar*: 2025 SCC OnLine Del 7272 had observed as under:

“(vi) Earning by the Wife Not Sole Ground to Deny Maintenance to Her and the Child in Her Custody

60. It is equally important to reiterate that the mere fact that a wife is earning some amount cannot, by itself, be a ground to deny her claim for maintenance, particularly where she has the custody of a minor child and is bearing the primary responsibility for the child's upbringing. The law on this point is well settled. In *Sunita Kachwaha v. Anil Kachwaha*, (2014)



16 SCC 715 : (2015) 3 SCC (Cri) 589 : (2015) 3 SCC (Civ) 753, the Hon'ble Supreme Court held that even if the wife is employed and earning, that alone does not disentitle her to maintenance if her **income is insufficient** to enable her to maintain herself and her children in accordance with the standard of living that she enjoyed in the matrimonial home. Maintenance, after all, is not a matter of charity but of right - a continuing obligation flowing from the marital relationship, which the husband cannot evade merely by pointing to the wife's limited earning capacity.

61. In *Vineet Gupta v. Bhawna Gupta*, 2025 : DHC : 3622, this Bench had also observed that the approach of the Court in maintenance matters is not guided by gender, but by responsibility, need, and fairness. A custodial parent, whether mother or father, shoulders a dual burden : maintaining professional responsibilities while providing care, emotional support, and stability to the children. Further, the role of a working custodial parent is not that of an individual living alone, but of one sustaining an entire family unit single-handedly. Therefore, even if such a parent earns, the Court must take into account the demands of childcare, household expenses, and the reduced capacity to take on additional work or income-generating opportunities. It was *inter alia* observed as under:

62. In the context of maintenance, this understanding assumes great significance. A working mother who is also the primary caregiver does not stand on the same footing as a financially independent individual with no dependents. Her income, even if regular, is often substantially offset by the expenses of the child's education, healthcare, and daily needs. To deny her maintenance on the ground that she earns something would be to disregard the economic and emotional realities of single parenthood.

63. The test, therefore, is not whether the wife earns, but whether her income is sufficient to meet her and her child's reasonable needs, consistent with the standard of living they were entitled to during the subsistence of marriage.”

37. In the present case, it is material to note that while it is not in dispute that the wife had enrolled herself in a make-up artist course,



the wife contends that she was unable to complete the same as the respondent husband paid only ₹2 lakhs towards the course fee, as reflected in her bank account statement, and did not make the remaining payment. The husband, on the other hand, claims that the wife had completed the said course. Whether the wife was able to complete the course or not is clearly a matter requiring evidence and cannot be adjudicated at the stage of interim maintenance.

38. But even assuming, for the sake of argument, that the wife had completed the make-up artist course, the same by itself cannot constitute a valid ground to deny her maintenance – in the absence of any material to show that she was actually earning an income sufficient to sustain herself and to live a life reasonably comparable to that of the husband.

Denial of maintenance to the wife by the learned Appellate Court

39. It is further important to note that the learned Appellate Court, while deciding the appeal filed under the PWDV Act, has also declined interim maintenance to the wife *vide* order dated 31.01.2024. The primary reasons for such denial were as under:

“23. In the present case, it has been argued that the complainant is earning well, being a make-up artist. There are certain entries in her bank statement which shows that she is receiving some payment from Lakme which stopped reflecting in her bank account after a while.

24. It is a well settled law that in order to seek maintenance, one has to come with clean hands and complete disclosure has to be made. Let us assess what complainant has stated about her income and what supporting documents she has filed.

25. The complaint had filed her affidavit of assets wherein she had stated that she is unemployed and is dependent upon her



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mother sister and brother for her maintenance. She had filed the bank statements of her ICICI Bank from 14.09.2020 till 10.06.2021, from 01.06.2021 till 31.08.2021 and from 01.08.2021 till 01.08.2022. She had also stated that she had taken loan of Rs.18.65 lakhs and another loan of Rs.79,000/-.

26. On 05.01.2022, the parties were directed to file affidavit of their income and assets in terms of ***Rajnish vs. Neha & Ors. in Cri.A. No. 730/2020 decided on 04.11.2020*** alongwith statement of bank account, ITRs and latest salary slip by learned Trial Court. However, the complainant had filed the bank statement from 14.09.2020 till 01.08.2022 though it was to be filed for preceding three years in terms of ***Rajnish vs. Neha*** (Supra). The said compliance has not been done which was a mandatory requirement. The assessment of income of complainant is not possible without complete bank statement. It cannot be assessed as to how much amount she is actually earning. No reasons have been given for non-disclosure of the remaining bank entries. Hence, she is not entitled to any interim maintenance in view of the non-disclosure of the complete facts.”

40. Notably, the learned Appellate Court observed in the impugned order that there were certain entries in the bank account statement of the wife indicating receipt of some amounts from Lakme, which thereafter ceased. However, *in this regard*, the attention of this Court has been specifically drawn by the learned counsel for the wife to the entries pertaining to Lakme appearing in her bank account statement. A careful perusal thereof reveals that on 06.11.2020, the wife had initially made a payment of ₹27,140/- to Lakme through her debit card, which amount was subsequently credited back on account of reversal of the transaction, as reflected in the entry “MPS/PAYMNT RVSL/LAKMEACADE”. On the same day, the wife again made a payment of ₹27,140/- to Lakme towards the said course. Thus, the entries relied upon by the learned Appellate



Court effectively pertain to a single payment of ₹27,140/- made by the wife to Lakme, and not to any receipt of income from Lakme. A similar debit entry reflecting a payment of ₹20,562/- made by the wife to Lakme on 30.09.2020 is also borne out from the record. Therefore, at this stage, this Court finds that there are no entries in the bank account of the wife which indicate receipt of any amount from Lakme.

41. Another significant observation made by the learned Appellate Court in order dated 31.01.2024 was that in January 2022, the parties had been directed to file affidavits of income and assets in terms of the judgment of the Hon'ble Supreme Court in **Rajnish v. Neha: (2021) 2 SCC 324**, along with their bank account statements. It was observed that the complainant-wife had filed bank account statements for the period from September 2020 till August 2022, i.e. for about two years, whereas she was required to file statements for the preceding three years. On this basis, the learned Appellate Court concluded that since the directions in **Rajnish v. Neha (supra)** had not been fully complied with, it was not possible to assess her income and, consequently, she was not entitled to interim maintenance.

42. In the considered view of this Court, the aforesaid reasoning is also erroneous. The learned Appellate Court has clearly failed to take note of the undisputed position that till August 2020, the parties were admittedly residing together and the husband was taking care of the wife as well as the minor son. *It is not the case of either party that the wife was earning any income prior to August 2020.* Further, the



make-up artist course in which the wife had enrolled was admittedly after the parties had separated, and the payment of ₹2 lakhs made by the husband towards the said course is reflected in the bank account statement of September 2020. Thus, even if the wife had not filed bank account statements for the period prior to August 2020, and filed statements for the period September 2020 till August 2022, the same could not have been made a sole ground to deny her interim maintenance by holding that her income could not be assessed. This is particularly so when there was no allegation, much less any material, to suggest that she was earning any income whatsoever during the period when the parties were residing together i.e. till August 2020.

43. Therefore, this Court is of the view that both the learned Magistrate as well as the learned Appellate Court, in proceedings under the PWDV Act, have misdirected themselves and failed to correctly appreciate the central issue, that whether the wife was entitled to interim maintenance.

Grant of maintenance to the wife by the learned Family Court

44. On the other hand, this Court finds that the learned Family Court, while adjudicating the issue of interim maintenance in proceedings under Section 125 of the Cr.P.C. has correctly appreciated the material on record at the interim stage. The relevant portion of the order dated 30.06.2021 is extracted hereunder:

“13) Respondent has claimed that petitioner is capable to maintain herself as she is Make Up Artist and doing job and earning handsome amount.



14) Disputed facts related to income of the parties cannot be decided at this stage. Right and liabilities of parties, at this stage, is liable to be decided on the basis of their income affidavits and supporting documents.

15) At this stage, there is no sufficient material to accept the plea of the respondent that his wife has sufficient income to maintain herself and the child.

16) Merely on the basis of the photograph as makeup artist it cannot be said that she is able to maintain herself.

18) In this case petitioner has shown herself as BA which is not a professional degree. From the year of marriage i.e. 2013 to 2020 when the respondent left India petitioner no.1 claimed to be maintained by respondent and this fact has not been specifically denied. Respondent is denying his liability to maintain his wife on the ground that she is a makeup artist. If this plea of respondent is accepted then also it cannot be said that petitioner no.1 is capable to maintain herself. If makeup artist course was done by the petitioner no.1 in year 2021 or subsequent then it is clear that petitioner no.1 is at very initial stage of her profession and at this stage it is very difficult to assess her income by profession of makeup artist. There is no income of petitioner no.1 reflecting from her documents but it may be assessed Rs.20,000/- to Rs.30,000/-pm. This assessed amount is very less in comparison to the income of respondent. In these circumstances keeping in view disparity between assessed income of petitioner no.1 and declared income of respondent, this Court is of opinion that respondent is liable to pay maintenance amount to petitioner no.1 also. Petitioner no.1 has shown monthly expenses of child @ Rs.40,000/-.”

45. In this Court’s view, the learned Family Court, in the abovesaid order, has rightly held that merely because the wife may have pursued a make-up artist course or because certain photographs depicting her as a make-up artist were placed on record, the same could not be a ground to deny interim maintenance in the absence of any substantive material establishing her actual earnings or monthly



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income. It was also noticed that as per her affidavit of income and assets, the wife was a B.A. (Hons) graduate and had no source of income. In its order dated 08.12.2021, the learned Family Court had also taken note of the contention of the wife that the photographs relied upon by the husband pertained to the period when she was pursuing the make-up artist course and not thereafter.

46. The learned Family Court further observed in the aforesaid order that even if the wife had completed the make-up artist course in the year 2021 or thereafter, she would be at a very nascent stage of her profession, making it difficult to assess her income at that stage. It was further observed that even if it were assumed that the wife was earning something, her income would not be more than ₹20,000/- to ₹30,000/- per month, which was very less when compared to the income of the husband.

47. This Court also notes that the parties were married in the year 2012 and had resided together till August 2020. During this entire period, the wife was neither employed nor earning any income. It is also not in dispute that even prior to the marriage, the wife had never been employed and had no independent source of income.

48. *At this stage*, this Court notes that while addressing the question of entitlement of the wife to maintenance, the learned counsel appearing for the husband argued that the wife was well-educated, qualified, and capable of earning, and ought to engage in gainful employment rather than seek maintenance from the husband. Reference was made to her educational qualifications and the make-



up artist course pursued by her to contend that she had the ability to earn an independent income. It was further submitted that courts should be cautious in entertaining claims of maintenance by women who, despite having the capacity to work, choose not to do so after marriage and seek to sustain themselves on the earnings of the husband.

Marital Expectations and Social Context in Indian Households

49. This Court notes that in **many households in Indian society**, it is still commonly expected that a woman, at the time of marriage, either does not work or, even if she is employed, is persuaded or compelled to give up her employment to devote her time to the household, the family, and the upbringing of children. This expectation is also witnessed even where the woman is educated and otherwise capable of pursuing a career.

50. However, **when matrimonial relations deteriorate and legal proceedings ensue, it is frequently seen that the same husband takes a starkly contrary position and contends that the wife is well-qualified, capable of earning, and is deliberately choosing to remain unemployed while seeking maintenance.** Such a stand cannot be encouraged. Where a husband has, either expressly or by conduct, required or expected his wife to give up her employment and assured her that he would take care of the financial needs of the family, he cannot later disown that very understanding and shift the entire burden upon the wife by contending that she ought to now independently sustain herself.



51. In the Indian social context, a woman who gives up employment after marriage does so under a variety of circumstances – some voluntary, some negotiated, and at times, compelled by familial expectations or practical realities. At times, the decision to discontinue employment may arise from relocation due to the husband’s transfer, the birth of a child, or the need to care for elderly members of the family.

52. In the present case, the wife has stated before this Court that she had appeared in certain examinations for bank clerk posts in the year 2012 but did not pursue her career further after marriage, as she was expected to remain at home and manage the household. Whether such expectations were articulated expressly or evolved as part of the marital understanding is a matter not to be seen or examined at this stage; however, the reality remains that the wife did not pursue any career during the subsistence of the marriage and till the time the parties were living together. To now fault her for not working and earning to sustain herself despite being qualified, without accounting for the circumstances that led to such a position, would be unjust.

53. At the same time, this Court is mindful that where a woman is educated, qualified, and employed, and voluntarily chooses to leave her employment without any compelling circumstances, she must remain conscious that such a decision may have practical consequences. **Marriage does not suspend economic realities, and the law cannot, in every situation, insulate parties from the long-term financial implications of choices made with open eyes.** Each



case must, therefore, be examined on its own facts.

Practical Realities and Barriers to Re-entry into the Workforce after Marital Breakdown

54. The Courts are also required to take judicial notice of the practical difficulties associated with re-entering the workforce after a prolonged break. **A woman who has stepped away from her profession due to marriage or family responsibilities cannot be expected to resume employment at the same level, salary, or professional standing merely because the marriage has broken down between the parties after several years.** Rapid technological changes, evolving skill requirements, and competitive job markets often place such women at a distinct disadvantage. A woman who pauses her career for several years cannot simply resume from where she left off. Skills may become outdated, professional networks weaken, and age-related barriers become real. The assumption that she can effortlessly re-enter the workforce ignores these practical realities. Therefore, it would naturally be unrealistic and unfair to assume that the wife would have the same employability restored the moment she separates from her husband, particularly after a break of several years.

55. This aspect has also been emphasised by the Hon'ble Supreme Court in *Rajnish v. Neha (supra)*, wherein it was held that in marriages of long duration, where the wife, though educated and professionally qualified, had to give up employment opportunities to look after the family and children, such circumstances must be given



due weight. The Supreme Court recognised that in contemporary society, a separated wife may require fresh training to acquire marketable skills and rehabilitate herself in the workforce, and that advancement in age further compounds the difficulty of re-entry after a prolonged career break. These realities cannot be ignored while assessing entitlement to maintenance.

The Myth of the 'Idle' Wife

56. It was also argued on behalf of the husband that the wife cannot sit “idle” and claim maintenance.

57. This Court finds it necessary to address the notion, often encountered while adjudicating maintenance proceedings, of the so-called “idle woman”. While there is no quarrel with the proposition that women who are able and willing to work should be encouraged to pursue employment, the denial of maintenance on the sole ground that a wife is capable of earning and should not remain dependent upon her husband is a flawed approach. The capacity to earn and actual earning are distinct concepts, and as per settled law, mere capacity to earn cannot be a ground to deny maintenance. **The real test is whether the wife is actually earning.** A different conclusion may arise in cases where a wife, immediately before or after filing a maintenance petition, gives up employment solely to claim maintenance and without any apparent justification. In the present case, the reasoning adopted by the learned Magistrate overlooks the realities of domestic life and the responsibilities borne by a woman within a household, particularly when a minor child is in her custody.



58. **The assumption that a non-earning spouse is “idle” reflects a misunderstanding of domestic contribution.** Managing a household, caring for children, supporting the family, and adjusting one’s life around the career and transfers of the earning spouse are all forms of work, even though they are unpaid and often unacknowledged. **To describe non-employment as idleness is easy; to recognise the labour involved in sustaining a household is far more difficult.** These responsibilities do not appear in bank statements or generate taxable income, yet they form the invisible structure on which many families function.

59. Where one spouse earns income in the marketplace and the other sustains the domestic sphere, the economic stability of the household is the result of combined, though differently manifested, contributions. **A homemaker does not “sit idle”; she performs labour that enables the earning spouse to function effectively. To disregard this contribution while adjudicating claims of maintenance would be unrealistic and unjust.**

60. This Court is, therefore, unable to agree with any view that equates non-employment of a wife with idleness or deliberate dependence on the husband.

61. It must be remembered that while one spouse may bring in monetary income, the other may invest time, effort, and opportunity costs into sustaining the family structure. When the relationship deteriorates and parties are compelled to approach the Court, one seeking maintenance and the other resisting it, the contributions of



both must be weighed with fairness and balance. **The law must recognise not only financial earnings but also the economic value of the contribution of the wife within the home and domestic relationship during the subsistence of the marriage.**

Conclusion: Wife is entitled to grant of interim maintenance

62. For the aforesaid reasons, this Court is of the view that the present case is one where, at this stage, there is no material on record to establish any past or present employment or earnings of the wife.

63. Further, the wife has also stated that when the husband left for Kuwait in August 2020, leaving the wife and the minor son in India, he had agreed to pay monthly maintenance to the tune of ₹1.25 lakhs. The husband has himself averred that he was paying certain monthly expenses towards the maintenance of the wife and the minor child. The bank account statements placed on record clearly reflect that the husband had transferred ₹50,000/- in one month and thereafter ₹1 lakh per month for three months towards “monthly expenses” to the wife. The fact that such payments were being made by the husband himself clearly indicates that the wife had no independent source of income and was dependent upon the husband for her sustenance during the said period.

64. In these circumstances, this Court is clearly of the view that the wife has made out a case for grant of interim maintenance in her favour, as there is no material on record to suggest that she is earning any income sufficient to maintain herself or meet her day-to-day expenses.



B. Whether the income of the husband has been correctly assessed and appropriately apportioned between the wife and the minor child for the purpose of maintenance?

65. At the outset, it is not in dispute that the husband is employed as a Drilling Engineer with Kuwait Oil Company, a Government-owned entity under the Kuwait Petroleum Corporation, and has been working in Kuwait since the year 2015. The affidavits of income and assets filed by the husband, along with the documents placed on record before the Courts below, clearly establish that he is a highly qualified professional holding a B.Tech degree in Petroleum Engineering and is earning a substantial income in foreign currency.

66. The salary slips and bank account statements placed on record reveal that in the year 2021, the husband was earning about USD 5,100–5,420/- per month, which, at the prevailing exchange rate of about ₹73 per USD at that time, translated to an income of about ₹4 lakhs per month in Indian currency. Subsequently, as per the salary slip dated 06.02.2023, the husband's gross monthly salary stood at USD 6,461/- which, at the average exchange rate of ₹82 per USD in 2023, comes to about ₹5.29 lakhs per month. Thus, there is no manner of doubt that the husband's income has substantially increased over time and that he is a person of considerable means.

67. The learned Appellate Court has also taken note of the fact that while the husband disclosed one of his bank accounts maintained with the National Bank of Kuwait, substantial portions of his salary were being repeatedly transferred from that account to another account held by him, the statement of which was not placed on



record. Additionally, the bank account statements of his HDFC Bank account revealed the creation of multiple fixed deposits, cumulatively running into more than ₹1 crore, as well as an advance of ₹10 lakhs given by him as a loan to a third party. These financial transactions demonstrate that the husband has not only a steady and high income but also significant savings and surplus funds at his disposal.

68. In his affidavit, the husband has sought to project that he is incurring monthly expenses to the tune of ₹3.46 lakhs, including substantial EMIs towards a home loan in Kuwait and a flat in Noida, besides other personal and household expenditures. However, the plea of the husband that his net income must be assessed only after deducting EMIs towards home loans, personal loans, insurance premiums, rent, utilities, and other voluntary liabilities cannot be accepted. It is well settled that while determining maintenance, only statutory and compulsory deductions such as income tax and mandatory social security contributions are liable to be excluded. Voluntary financial commitments, including repayment of housing loans or personal loans undertaken by the earning spouse at his own discretion, cannot be permitted to dilute or defeat the statutory obligation to maintain a dependent spouse and minor child.

69. In this regard, reliance may be placed on the judgment of the Division Bench of this Court in *Subhash v. Mamta @ Raksha: MAT.APP.(F.C.) No.195/2025*, decided on 26.05.2025, wherein it was categorically held that repayment of personal loans and EMIs voluntarily undertaken by the earning spouse does not qualify as



permissible deductions and cannot override the primary obligation to maintain a dependent spouse and child. The Court reiterated that maintenance is required to be assessed on the basis of the “free income” of the earning spouse, and not on the balance amount remaining after accounting for voluntary deductions. The rationale is that such liabilities are assumed by choice and cannot take precedence over the duty to maintain wife and minor children as imposed by law. Consequently, the argument raised on behalf of the husband in this regard is devoid of merit and stands rejected.

70. At the same time, this Court is conscious of the fact that the husband is residing and working in Kuwait, where the cost of living is materially higher than in India. His reasonable expenditure towards accommodation, food, transport, and utilities in the country of employment cannot be ignored altogether and is required to be factored in while determining the quantum of maintenance. In *Bindu Chaudhary v. Deepak Suga: 2016:DHC:6795-DB*, the Division Bench of this Court held that where a person is earning in a foreign country (*Dubai, in the said case*), both his income and expenditure are in that currency, and it would not be appropriate to mechanically convert his income into Indian currency without considering the cost of living in the country of employment.

71. For the same reason, in cases where the husband is earning abroad in a country with a higher cost of living, the rigid application of the apportionment principle laid down in *Annurita Vohra v. Sandeep Vohra: 2004 SCC OnLine Del 192* may not be apposite.



Each case must be assessed on its own facts, keeping in view the overall financial capacity of the husband, the needs of the wife and child, and the standard of living to which they were accustomed.

72. This Court also notes from the material placed on record that prior to the initiation of the present litigation, the husband had been voluntarily transferring amounts towards the maintenance of the wife. The bank account statements reflect that for a few months, the husband had paid an amount of ₹1 lakh per month to the wife towards “monthly expenses”. This also demonstrates that the husband had the financial capacity to pay such amounts at the relevant time and was conscious of his obligation to maintain the wife and the minor child. The same also belies the plea taken by the husband that after meeting his personal and other family expenses, he is left with very meagre surplus income.

73. In view of the above discussion, this Court is of the opinion that in the present case, the learned Family Court, while adjudicating the proceedings under Section 125 of the Cr.P.C. – and after taking into account the husband’s admitted income, his place of employment, his claimed expenses, and the absence of any reliable material to establish independent earnings of the wife, and granting interim maintenance of ₹50,000/- per month to the wife and ₹40,000/- per month to the minor child – has adopted a balanced approach.

74. In the above background, this Court is thus unable to accept the argument of the husband that, despite admittedly earning in the



range of ₹5–6 lakhs per month, he can refuse to pay any maintenance to his wife, while asserting that he is “somehow managing” to pay only ₹10,000/- per month towards the child’s expenses along with school fees. Accepting such a submission would defeat the very purpose of the law relating to maintenance.

75. This Court also finds it apposite to observe that while grant of maintenance is often described as a measure to prevent destitution and vagrancy, and that undoubtedly remains one of its core purposes, yet the concept of maintenance cannot be viewed in such narrow terms alone. Particularly in a matrimonial setting, maintenance also serves to ensure that a spouse who does not have an independent source of income is not reduced to a position of economic vulnerability while the other continues to enjoy financial stability.

76. Where a wife is not working, is managing the household, caring for a minor child and/or the elderly of the family, and the husband has a steady and substantial income, the grant of maintenance is rooted in the **principle of equity** between the parties. Maintenance, in such cases, is meant to place both parties at reasonably comparable levels so that each is able to sustain a dignified life.

77. When a marital relationship breaks down, the law must ensure that the spouse who invested time, effort, and years into building the family is not left economically stranded. A marriage is not only a personal relationship but also a partnership in which each spouse contributes in different ways. One may earn income outside the



home, while the other supports the family by managing the household, raising children, and enabling the earning spouse to pursue and sustain a career. If, after the breakdown of such a relationship, the non-earning spouse is left without financial support, the balance of that partnership is disturbed. Award of maintenance to the spouse seeks to correct that imbalance by recognising the contribution made within the family, even though it may not have been in the form of a salary.

78. The law, therefore, has to step in to ensure that the spouse who invested in the family is not pushed into financial hardship merely because the marriage has come to an end.

C. Final Quantum of Maintenance

79. In view of the findings recorded hereinabove, this Court is of the considered view that the conclusions arrived at by the learned Magistrate and the learned Appellate Court in the proceedings under the PWDV Act, insofar as they deny interim maintenance to the wife, are erroneous and unsustainable, and are liable to be set aside.

80. Whereas, this Court finds no infirmity in the order passed by the learned Family Court in the proceedings under Section 125 of the Cr.P.C. whereby interim maintenance of ₹50,000/- per month was awarded to the wife and ₹40,000/- per month to the minor child. The said quantum has been determined after a proper appreciation of the material on record, the financial capacity of the husband, and the needs of the wife and the minor child, and calls for no interference.



81. In order to ensure uniformity, avoid overlapping of maintenance orders, and to harmonise the relief granted under the PWDV Act and Section 125 of the Cr.P.C., this Court holds that interim maintenance of ₹50,000/- per month to the wife and ₹40,000/- per month to the minor child shall be payable also under proceedings under PWDV Act. To this extent, the enhancement of maintenance to ₹60,000/- per month granted to the minor child by the learned Appellate Court in the proceedings under the PWDV Act is reduced to ₹40,000/- per month, and the orders of learned Magistrate and learned Appellate Court are set aside qua denial of maintenance to the wife and maintenance of ₹50,000/- is awarded in favor of the wife in proceedings under PWDV Act.

82. It is further directed that the aforesaid amounts of ₹50,000/- per month to the wife and ₹40,000/- per month to the minor child shall be payable from the date of filing of the respective applications/petitions before the Court concerned.

83. This Court is also guided by the principles laid down by the Hon'ble Supreme Court in *Rajnish v. Neha* (*supra*), wherein it has been held that where maintenance is claimed under different statutes, the Court must ensure adjustment or set-off of the amounts awarded or paid in parallel proceedings. Accordingly, it is directed that any amount already paid or payable by the husband towards maintenance in either of the proceedings shall be duly adjusted and set off against each other.

84. Accordingly, the orders passed by the learned Magistrate and



the learned Appellate Court under the PWDV Act stand modified to the aforesaid extent, and the order passed by the learned Family Court under Section 125 of the Cr.P.C. stands upheld.

85. However, the observations made in this judgment are solely for deciding the present petitions, and shall not influence the merits of the case during trial.

86. Let the arrears of maintenance be cleared by the husband within a period of 6 months from date.

87. Insofar as the issues relating to alleged non-disclosure of LIC policies and other financial assets, including fixed deposits, raised by both the husband and the wife in CRL.M.A. 35130/2025 and CRL.M.A. 35710/2025, along with the prayers seeking initiation of perjury proceedings against each other, are concerned, this Court is not inclined to pass any order thereon, as it is presently dealing only with the issue of interim maintenance. The parties are left at liberty to raise all such issues before the concerned Trial Courts at the appropriate stage.

Mediation, not Litigation

88. Before parting with this judgment, this Court also finds it necessary to acknowledge the manner in which maintenance proceedings often become intensely adversarial. Once matrimonial disputes reach the courtrooms, both the parties begin to approach the litigation as a contest to be won rather than a problem to be resolved. The emotional strain of a broken relationship frequently spills over into the court proceedings, which makes it difficult for initiation of a



dialogue between the parties.

89. Another tendency which cannot be ignored is that in such contested proceedings, the wife may at times overstate her monthly expenses, while the husband often understates his income or pleads financial incapacity. Courts are then left to sift through competing versions, which prolongs the cases pending before the Courts. This adversarial approach rarely serves the long-term interests of either party, and least of all those of minor children who are directly affected by prolonged disputes.

90. In this backdrop, this Court is of the view that **mediation, rather than continued litigation, offers a more constructive path forward in matrimonial disputes.** Mediation, undoubtedly, provides a better space for meaningful dialogue, realistic assessment of needs and capacities of both the husband and the wife, and mutually acceptable solutions.

91. In view of the above, the present petitions, along with all pending applications, are disposed of.

92. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

FEBRUARY 16, 2026/ns

T.D./T.S.