IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 2180 of 2023
Mayur Agarwal
Vs.
Swati Agarwal
With
CRR 2181 of 2023
Mayur Agarwal
Vs.
Swati Agarwal
With
CRR 2303 of 2023
Swati Agarwal
Vs.
The State of West Bengal & Anr.
With
CRR 2304 of 2023
Swati Agarwal.
Vs.
State of West Bengal & Anr.

For the Opposite party/wife (In item nos. 3 and 4) For the Petitioner/wife (In item nos. 5 & 6)	: : : :	Mr. Sandipan Ganguly, Sr. Adv Mr. Satadru Lahiri, Mr. Rishav Singh Mr. Soumalya Dutta
For the Opposite party/Husband (In item nos. 5 & 6) For the Petitioner/Husband (In item Nos. 3 and 4)	: : : :	Mr. Sourav Chatterjee, Sr. Adv. Mr. Soumyajit Das Mahapatra Ms. Madhurai Sinha Mr. Tasneem Ahamed
Heard On	:	15.06.2026
Judgment on	:	20.11.2026

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Dr. Ajoy Kumar Mukherjee, J.

1. All the four Revisional Applications being number **CRR 2303 of 2023, CRR 2304 of 2023, CRR 2180 of 2023, CRR 2181 of 2023** are based on common factual matrix and inter linked questions of law and therefore taken up together for passing a common judgment.

2. Marriage of wife Swati Agarwal (petitioner of CRR 2304 of 2023 arising out of proceeding under section 125 Cr.P.C. being M 383 of 2020 and also petitioner of CRR 2303 of 2023 arising out of proceeding under section 12 of Protection of Women for Domestic violence Act being No. C1436 of 2020 and OP of CRR 2180 of 2023 and CRR 2181 of 2023) and Mayur Agarwal (petitioner of CRR 2180 of 2023 and CRR 2181 of 2023 and OP of CRR 2304 of 2023 and 2303 of 2023), took place on 21.02.2009 and they are also blessed with two children one of which was born on 30.05.2014 and the other on 04.12.2017 and both are school going.

3. It is alleged by Swati Agarwal (herein after called as wife) that she was driven out from matrimonial home after 11 years of marriage on 19.7.2020. She was compelled to lodge a criminal proceeding under section 498A/406/420/467/468/471 of IPC, where the investigating agency upon completion of investigation submitted charge sheet and the said proceeding is presently pending for trial.

4. Her husband Mayur Agarwal (hereinafter called as husband) initiated a criminal proceeding under section 420/406/506/379/328/34 of the IPC over the allegation of misappropriating a sum of Rs. 75 lakhs by the father of the wife. It is submitted that during investigation husband/complainant could not demonstrate source of fund allegedly advanced and therefore

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further investigation was prayed for twice, while even thereafter source could not be identified. The husband also filed act VIII case no. 135 of 2021, whereupon wife is in custody of two children and husband is allowed visitation right and the said case is also pending for disposal before Additional District Judge 13th court, Alipore. Husband has also filed matrimonial suit no. 3803 of 2022, seeking dissolution of marriage which has been presently stayed pending hearing of alimony prayer being Misc. Case no. 97 of 2023.

5. Wife initiated a proceeding seeking monetary relief and other reliefs being aforesaid complaint case no. C1436 of 2020 under the provision of Protection of Women from Domestic Violence Act, 2005 (hereinafter called as DV Act). Wife also initiated proceeding seeking maintenance under section 125 Cr.P.C. being said M-383 of 2020 which is pending before learned CJM Alipore. In both the proceeding wife prayed for interim monetary relief/interim maintenance. Learned Magistrate after hearing the aforesaid prayer for interim monetary relief was pleased to pass an order directing husband for payment of Rs. 20,000/- for wife and Rs. 15, 000/- each for two minor children totalling Rs. 50,000/- from the date of the filing of the application. Learned Magistrate was further pleased to direct the payment of alternative accommodation charge of Rs. 25,000/-. The same amount of maintenance order was passed by the Trial court in the aforesaid proceeding under section 125 of the Cr.P.C., which are adjustable with the amount awarded in the DV Act. proceeding.

6. Both parties preferred appeal/revision against the interim maintenance order /monetary relief order dated 20.06.2022, which were

numbered as Criminal Appeal no. 79/2022 (wife's petition) and criminal appeal no. 80 of 2022 (husband's petition) arising out of proceeding under DV Act and criminal motion 194 of 2022(wife's petition) and criminal motion no. 201 of 2022 (husband's petition) arising out of proceeding under section 125 of Cr.P.C.

7. Learned ADJ tagged all the matters together and was pleased to pass the order impugned dated 11.04.2023 by which the court below modified the order granting interim maintenance/interim monetary relief to the extent that the direction for payment of maintenance to the wife has been set aside and payment of maintenance directed to be made to the children has been enhanced to Rs. 25,000/- per month for each child till disposal of the principal application for maintenance/monetary relief. The learned Court below further directed for clearance of the arrear amount of maintenance by five equal monthly instalments.

8. It is argued by Mr. Sandipan Gangully, Senior Advocate on behalf of wife that she is aggrieved by the aforesaid impugned order dated 11.04.2023 by which court below rejected her prayer for interim maintenance/monetary relief making following erroneous observations

(a) Several entries in the bank accounts of the wife at the relevant period coupled with her shareholding and directorship in the company as well as assets of the company namely Habile Minds Informatics Private Limited as revealed from bank statements and other documents demonstrate, she is having substantial resource to maintain herself.

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(b) A counterblast criminal case Documents submitted/placed by husband lends support to the contention that father of wife is in custody of a huge sum of Rs.75 lakhs which has been illegally withheld by him.

(c) Since, it is the specific contention of wife that she is unemployed, money whatever has been routed through her accounts and/or benefits whatever accrued to her accounts are the money of her husband and as such she is in hold of a substantial portion of the assets of her husband.

(d) These issues have not been dealt with or disclosed in the affidavit of assets and liabilities of the Wife.

9. Mr. Gangully while attacked the aforesaid observations of the court below in support of denial of wifes claim of interim maintenance/monetary relief made the following arguments.

I) There is no denial of marriage and or paternity of children and nothing unimpeachable has been brought in record to establish wife is employed or earning handsome, which is sufficient to maintain herself rather the unemployment of the wife has been acknowledged

II) The regular expenses of the wife and children for surviving a decent life and/or meeting out their regular expenses is about 86,000/- per month.

III) Materials demonstrating the opulence of the husband, exorbitant and luxurious lifestyle the couple has been leading, as also the husband presently leading vis a vis

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the expenses of the wife and children has been completely ignored and erroneously an undue leverage has been shown to the husband. Husband has residential flat approximately valued at Rs. 2 crores where he is presently residing, he has gold bar weighing approximately 2 Kgs. and silver items which are approximately valued at Rs. 3 crores. He has LIC policy, Mediclaim, PPF for more than 50 lakhs. He has also several fixed deposits which matured in the year 2023 to the tune of Rs. 70,56, 003/- approximately and he has also assets investment and properties in the name of Maven Infotech Private Ltd. and he has also fixed deposit in the name of the company and all such fixed deposits matured in the year 2023 to the tune of Rs. 4,30,97,408/- approximately.

IV) Wife on the contrary having a sum of Rs. 18 lakhs approximately in the bank account and subsequent interest income in the account which does not completely debar her from getting any maintenance and or any ground for reducing the quantum of maintenance for the children. The sum of Rs. 18 lakhs has been used for relinquishing the dues accrued while the couple was living together as well as maintaining the children and herself from the date of separation i.e. 19.07.2020 and as such cannot be said to be in existence as of now and therefore cannot be ground for depriving the wife from

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getting any relief, holding her capable to maintain herself. The sum accrued in the account of the wife as the husband routed through a sum of Rs. 11,15,55,713/- was ultimately transferred from the account of wife to husbands various bank accounts of Maven Infotech Pvt. Ltd., Mayur Agarwal etc. from 08.03.2019 to 29.03.2020. The reducing balance of the account clearly demonstrate the expenses made therefrom and non-availability of any source of alternative income for maintaining the wife herself and the children. Learned court below while forming his opinion as to the financial stability of the wife and alleged income added only the credit column of the bank statement but never considered the corresponding debit column and as such reached a complete erroneous consideration.

10. He further argued that alleged possession of a sum of Rs. 75 lakhs by wife's father for holding her as 'capable to maintain herself' and/or granting insufficient quantum as maintenance to the children is non-est in view of the fact that husband has been pursuing a litigation over alleged transaction and therefore, the same cannot be used in benefit in maintenance cases to deprive the wife and children. This is because the husband did not forgo his right and claim over the same. Moreover, the amount if any at all given, was given to the father of the wife which is inconsequential for deciding the claim of maintenance of the wife and

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children. Further, till date no bank statement or any valid proof has been shown that such money was at all given.

11. Mr. Gangully further argued that the alleged asset of Rs. 43 lakhs as pointed out and appreciated by the court below, while passing the order impugned, is the asset of the company wherein the wife is director of the company along with her mother-in-law i.e. the mother of the husband. Said property assets belonging to company cannot be considered or used for relinquishing the personal needs demands of any director unless the company has been wind up and accounts have been settled. The entitlement of the shareholders of the company on the assets of company accrues only after relinquishment of dues of company from its assets. Whereas in the case in hand, the liability of the company for non-compliances is more than the assets of Rs. 43 lakhs, liability is in excess of the funds/assets available to it. Hence such money of Rs. 43 lakhs is of no use to the wife and as such it cannot be mentioned to deprive wife and children of maintenance.

12. He further pointed out that when the spouse were together, husband transferred huge amounts from his company and as such from 18.03.2009 to 29.03.2020 a total of Rs. 11,50,55,713/- was deposited in wife's bank account but for the same period a sum of Rs. 11,23,69,310/- was withdrawn and returned into husband company or husband's personal account and only Rs. 18 lakhs remained in the bank account of wife on the date of separation i.e. July, 2020. He further submits in this context that combined fees of approximately Rs. 30,000/- is spent monthly on both children towards their school fees. She has also submitted that the amount directed to be paid towards rent is very less to find an accommodation in

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South Kolkata and therefore she also prayed for enhancement for rent to enable her and children to a decent standard of living.

13. Per contra Mr. Sourav Chatterjee, learned Senior counsel appearing on behalf of Mayur Agarwal/husband, while attacked the same impugned judgments dated 11.04.2023 passed in criminal appeal no. 79 of 2022 and Criminal Appeal no. 80 of 2022 and the impugned same dated order passed in criminal motion no. 194 of 2022 and criminal motion no. 201 of 2022 inter alia made the following arguments.

(i) That the learned Additional Sessions Judge while deciding the criminal appeal arrived at a conclusion that the order impugned requires interference and in fact set aside the learned Magistrate's order to the extent of the wife being granted interim monetary relief but kept the quantum of maintenance intact.

(ii) Referring the various observations made by learned Additional Sessions Judge in the impugned judgment dated 11.04.2023, Mr. Chatterjee argued that the court below has made clear observation that the wife's application under section 12 does not make out a case of economic abuse as defined in clause (iv) of the Explanation 1 to section 2 of the DV. Act and that wife's financial position at the time of separation in July 2020 does not call for immediate financial assistance in the form of interim relief. He further argued that the OP in her affidavit in Opposition affirmed on 20.7.2023 has stated that the interest income accrued was approximately Rs. 18 lakhs into her bank account and was spent for proper upbringing and meeting up

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the compulsory expenses for both minor children and other compulsory expenses. Therefore, a fact which has admitted by wife need not require to be proved in view of section 58 of the Indian Evidence Act. But the courts below erred in law and in fact in not adjusting the said amount against the arrears of maintenance calculated against the husband. When the wife has already maintained herself and the children using a substantial corpus of funds that originated from the husband, assessing arrears against the husband for the self-same period without deducting Rs. 18,00,000/-, is mathematically flawed and legally untenable.

14. He further argued that WhatsApp messages confirming that wife has kept Rs. 75 lakhs of husbands money with her father. Said message further confirms that she had taken Rs. 3,80,000/- from that corpus fund from her father and the balance remaining with her father. The conversation also goes to show that wife was having dominion over such huge amount of money and has also liberty to withdraw as per her own volition. The husband has entrusted a substantial amount of money with his father in law and the wife always have full access to such money. It is only when the husband demanded the money back from the his father-in-law, the entire disputes started

15. He further argued that the wife in her affidavit in opposition dated 20.07.2023 has annexed a bank statement of a company named and styled as Habile Minds Informatics Pvt. Ltd. in an account maintained with SBI and a bare perusal of the said bank statement relied by the wife herself in

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her affidavit discloses that the said company was having a balance of Rs. 44,53,210.28/- as on 12.03.2023. The wife is the maximum shareholder in the Habile Minds Informatics Pvt. Ltd. and she is also one of the directors. The mother of the husband who owns only one percent share in such company although is the director of such company, but vide Board resolution dated 27.06.2019, the mother of the husband had authorized the wife to sign and submit all necessary documents relating to such company. Infact wife herself has annexed bank statements of the said company in her own affidavit, which by itself proves that she has sufficient access to such bank account. Therefore, it is patently absurd and inherently improbable that despite being more than 99% shareholder of Habile Minds Informatics Pvt. Ltd. and also a director thereof, the wife is unable to operate the same only due to want of KYC and or alleged mobile no./email Id of the husband being incorporated therein as alleged or at all. In this context he further argued that being the owner as well as director of the company she is well entitled to change the mobile number/email ID of the bank account as alleged without any co-operation from the husband. She has refrained from doing so in order to support the purported claims for maintenance. Moreover after the couple had separated on 19.07.2020, and the proceeding was initiated on 12.10.2020, the husband from time to time in addition to what has been mentioned above has also paid a substantial amount to the wife which amounts to Rs. 1,75,000/- twice.

16. He further contended that a total sum of Rs. 1,41,000,00/- is lying with the wife and the same amount can generate monthly interest of Rs. 80,000/- per month if invested in fixed deposit in conservative manner.

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Therefore, the wife is wholly capable of maintaining both herself and the two minor children using the Rs. 1.41 crores of husband's money already available at her disposal and such amount is also liable to be adjusted if any maintenance order is passed by this court. He further argued that awarding any amount of maintenance would be highly inequitable burden to the husband while the wife continues to hoard such a huge corpus of the husbands capital. He submits that directing the husband to discharge fresh financial liabilities without accounting for the substantial funds already retained by the wife would cause unjust enrichment of the wife and would tantamount to a double jeopardy for the same cause of action, causing thereby financial prejudice to the husband. Since the wife is holding a whooping amount of Rs. 1.41 crores of the husband, who could have easily generated more than the ordered maintenance amount per month, from which he has been estopped by the conduct of the wife so the husband is entitled to get protection from the court.

17. Learned Trial court while awarding interim monetary relief under section 23 (2) of the DV Act proceeding on 20.06.2022 in C1436 of 2020, though held that at this stage without recording evidence it cannot be said that no domestic violence took place but at the same time recorded that wife is entitled to monetary relief primarily because she does not have source of steady income, though admittedly she appears to have some funds in her bank account which can held her financially. The relevant portion of the observation made by the trial court may be reproduced below.

> *"Petitioner has claimed Rs. 5 Lakhs per month as interim monetary relief for herself and R. 5 Lakhs as interim monetary relief for her two children which appears to be grossly exaggerated at this point of time. The allegation of retention*

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of cash to the tune or Rs. 80 lakhs by her is also matter of trial and not much reliance can be placed on screenshots of some purported whatsapp messages at this stage. Also the respondent's plea that petitioner is maintaining a high standard of life based on screenshots/photographs from social media handle cannot be relief upon at this stage either in absence of concrete evidence.

At this stage petitioner can prima facie, be deemed to be unable to maintain herself having no source of steady income though admittedly she appears to have some funds in her bank accounts which can help her see through financial exigencies and which should indeed be taken into account when deciding quantum of interim monetary relief.

It cannot be denied that maintaining a standard of life which is at least close to what petitioner and her children maintained while living with her estranged husband/their estranged father would cost quite a sum. However the Court is also not unmindful of the fact that maintenance particularly interim maintenance/monetary relief should be of such amount that enables the intended recipients to lead a comfortable but not essentially a luxurious life, while at the same it is not unduly penurious to the party who is directed to pay the same. It is not disputed the respondent held majority shares with respect to Maven Infotech which he claims is a busted business with losses running into huge sums. However the Court does not find concrete documents in this regard. More importantly the Court is in the dark about the assets of the said Maven Infotech, this is more so when the Respondent appears to be keen to protect the apartment at Urbana-registered in the name of Maven infotech from being given as alternative residence to the petitioner."

18. The same trial court while disposed of wife's petition for maintenance filed under section 125 Cr.P.C. in M 383/2020 on 20.06.2022 made the similar observation and had granted interim maintenance under section 125 Cr.P.C. on the ground that wife does not have steady income though admittedly she appears to have some funds in her bank account which can help her financially. The relevant portion of the said order may be reproduced below.

"Petitioner has claimed Rs. 5 lakhs per month as interim monetary relief for herself and Rs. 5 lakhs as interim monetary relief for her two children which appears to be grossly exaggerated at this point of time.

At this stage though petitioner can prima facie, be deemed to be unable to maintain herself having no source of steady income though admittedly she appears to have some funds in her bank accounts which can help her see through financial exigencies and which should indeed be taken into account when deciding quantum of interim maintenance.

It cannot be denied that maintaining a standard of life which is at least close to what petitioner and her children maintained while living with her estranged husband/their estranged father would cost quite a sum. However, the court is also not unmindful fo the fact that maintenance particularly interim maintenance/monetary relief should be of such amount that enables the intended recipients to lead a comfortable but not essentially a luxurious life while at the same it is not unduly penurious to the party who is directed to pay the same. It is not disputed the Respondent held majority shares with respect o Maven Infotech which he claims is a busted business with losses running into huge sums. However as mentioned hereinbefore, the Court does not find concrete documents in this regard other than the contention thereof raised by the Respondent in his affidavit of assets/liabilities. More importantly the Court is in the dark about the assets of the said Maven Infotech; this is moreso when the Respondent appears to be keen to protect the apartment at Urbana registered in name of Maven Infotech from being given as alternate residence to the petitioner.

It is but obvious from the pleadings of both parties that irrespective of their present financial conditions, both being to the higher echelon of society and are accustomed to a standard of life which only a minuscule percentage of this country can dream of.

Considering all aspects of the case, the status of the parties and their respective financial positions, as prima facie deciphered from the documents on record, the Court is inclined to award interim monetary relief to the tune of Rs. 20,000/- per month for the petitioner and Rs. 15,000/- per month for each of her two children. The interim maintenance awarded in this case shall be adjusted against maintenance, if awarded, to the petitioner/her children in the proceeding under section 12/23 of the Protection of Women From Domestic Violence Act 2005.

19. When criminal motion was preferred by both husband and wife, being aggrieved by said order dated 20.06.2022, the court below observed that the impugned order gives the impression that the lack of steady sources of income of the wife had led the trial court to grant interim maintenance to the wife though the materials on record strongly dispute the trial courts observation regarding wifes lack of steady source of income. He observed while it may be true that the wife did not have a steady job but this was not equivalent to her not being in a position to presently maintain herself as documents tend to show that she had at her disposal a sizable corpus of funds. It was further observed that the trial court was erred in not taking into consideration the bank statement of the wife which would have decisive

of the right to claim interim maintenance, as such right primarily linked to existing dire financial distress in addition to the wife's case of "unable to maintain herself" issue. The court below noted that the wife had an account with Bandhan Bank and the closing balance in the said account on 27.01.2020 was Rs. 3.99 crore. The account had a balance of Rs. 17.91 lakhs on 24.07.2020. He noted that the last part of July 2020, the wife had Rs. 17.91 lakhs in the Bandhan Bank Account which is the husband's money at her disposal. He further recorded that the wife had an account with HDFC Bank, Kakurgachi Branch which was solely operated by her from 01.4.2019 to 31.03.2020. There were 58 debit entries totalling Rs. 5,32,30,125.46/- and 31 credit entries Rs. 5,06,19,894/- with closing balance of Rs. 833.24/- the volume of transactions that took place during this period indicative of the fact that the wife was actively engaged with the husband in the later's financial activities during the period from 01.04.2020 to 31.03.2021, when the spouses had separated the credit entries total to Rs. 4,93,933/- which indicates that the wife was in receipt of fund even after the separation

20. The court below further observed that the wifes Bandhan Banks accounts statements shows that on 30.06.2020 a sum of Rs. 25,283/- was credited as interest. Again on 30.09.2020 a sum or Rs. 25,417/- was credited as interest thereafter on 31.12.2020 a sum or Rs. 17957/- was credited as interest and on 31.03.2021 a sum of Rs. 13646/- was credited as interest and therefore court below observed that even the diminishing quantum of interest does not hide of the fact that wife certainly has a corpus, invested somewhere which was provides the quarterly interest. The

court below further recorded that it is evident that the wife was inducted as a director in Habile Minds Informatics Pvt. Ltd. on 13.06.2019 and she was placed in complete charge of the affairs of that company, wherein she was the majority stakeholder with 99.99 shareholding. Said Habile Minds had invested a sum of Rs. 35 lakhs which generated a monthly interest that varied between Rs. 22,000/- to Rs. 23,000/-. The wife being the controlling agent of the company had the entire interest income at her disposal and the court below disbelieved the contention that the investment was made by the company and therefore, the wife does not have personal advantage. The court below further recorded that in the absence of pleading to the effect that the wife had no control over the interest income, it had to be taken that as the controller/director of the company, she was in enjoyment of the same. The court below further observed that it was her duty to led to the trial court know that she was in dejure control of the investment as the director of the company. Non-disclosure of these facts was akin to defrauding the court.

21. The Court below further recorded that the trial court allowed interrogatories to be delivered to the wife and the wife while answering had admitted about receiving of Rs. 23,51,397/- as interest in financial year 2019-2020 and it was also admitted that in the financial year 2020-2021 she had earned interest income to the tune of Rs. 84,926/-. He observed that from the documents it is clear that the wife in addition to nearly Rs. 18 lakhs in her Bandhan Bank Account at the time of separation, had a sizable corpus of invested funds. The court below also observed that the truth or falsity of the husband's contention regarding the retention of Rs. 75 lakhs

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by the wife was not to be decided at the interim maintenance stage but there is no legal justification to ignore potential evidence which had a bearing on the issue of immediate distress and urgent relief. Therefore the potential evidence which strongly supported the husbands case that the wife having under her control a sum of Rs. 75 lakhs, can only be proved during trial. Therefore, the court below came to a finding that it may be that husband is a very rich person but once it is provisionally made that the wife was not in so acute financial distress that without interim aid there is no possibility of her pursuing the principal action for maintenance against the husband, the trial court ought to have rejected her prayer for interim maintenance.

22. Wife's claim of interim monetary relief made under section 12 of DV Act has also been turned down on the self-same ground while disposing criminal appeal no. 79 of 20222 and criminal appeal no. 80 of 2022. From the above backdrop the moot question is whether the court below was justified in not granting interim maintenance/monetary relief to the wife.

23. It is argued on behalf of husband that although the wife filed an affidavit of assets on 08.03.2021 but she blatantly suppressed her income in its entirety, which *inter alia* have been disclosed from document filed by the wife herself and also available in the records of various proceedings between the parties. In her affidavit in reply to questionnaire by the husband, the wife mentioned that she had earned approximately Rs. 25 lakhs as interest income, however she did not disclose the further income of 6,40,000/- as salary and commission income. In her affidavit of assets the wife suppressed being above 99% shareholder as well as active director in Habile Minds Informatics Pvt Ltd. It is further argued that the date of marriage of the

couple is 21.02.2009 and the date of separation of the couple is on 19.7.2020 and she filed the PWDV Proceeding on 12.10.2020 and therefore in terms of law laid down in **Rajnesh Vs. Neha** reported in **(2021) 2 SCC 324** she was required to disclose copies of Income Tax Return for the period of 1 year prior to the marriage i.e. for the financial year 2008-2009 and one year prior to separation i.e. financial year 2019-2020 and also at the time when the application for maintenance is filed i.e. financial year 2020-2021. In her affidavit of assets the wife did not disclose her income tax return for the financial year 2019-2020, financial years 2020-2021 which amounts to vital suppression. She even did not disclose her income tax return for financial year 2021-2022, 2022-2023 and 2023-2024.

24. Learned counsel for the husband further pointed out that the wife stated on oath in affidavit of assets that she is paying of Rs. 50,000/- per month towards her housing but in the self same affidavit she has averred that she is staying currently in her father's house and that her father is bearing most of expenses which again makes it clear that the OP wife has furnished incorrect information in her affidavit of assets. Similarly though she had claimed in affidavit of asset that she is paying Rs. 20,000/- per month towards driver salary, Rs. 10,000/- per month for fuel and Rs. 2000/- per month towards maintenance and Rs. 2000/-towards insurance and again she claimed to be paying car loan EMI of Rs. 20,000/- but in her subsequent affidavit of her assets the wife disclosed that she does not own any private car.

25. Learned counsel for the husband further pointed out that while answering the interrogatories the wife admitted that she has changed the

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password of her Income Tax portal after separation and this was only possible if she was aware of her old password. Wife also admitted that she has changed the password of all her bank accounts and that she had submitted her bank statement in various pleadings which proves her access to bank account. The wife also produced her income tax return of various years and has also admitted that she has access to her mobile phone where she received Adhar based OTP for filing IT returns. Therefore, her claim that she has no access to the money lying in various bank account including that of Habile Minds Infotech Pvt. Ltd. and her alleged inability to operate the bank account due to inability of filing KYC documents is not true. Furthermore the wife's claim regarding her inability to file Taxes or update banking mandates are equally devoid of merit. By exercising her absolute share holder right to reconstitute the Board she can seamlessly assume total regulatory control. It is further argued that the husband is even ready and undertakes to provide any requisite like no objection certificate, signature etc. necessary to immediately facilitate the re-KYC and unfreeze the Habile Minds bank Account if any. The wife's deliberate refusal to utilize her statutory power coupled with her failure to accept the standing offer conclusively exposes her *malafid*e intent to artificially project financial distress while deliberately keeping Rs. 44,50,000/- locked away, specially when the mother of the husband vide Board Resolution dated 27.06.2019 had already authorized the wife to sign and submit all such necessary documents relating to such company.

26. From the respective argument made by both the parties one thing is clear that before granting maintenance/monetary reliefs to the petitioner,

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who claimed herself to be in distress condition, *interalia* following facts needs to be ascertained by way of evidence to be adduced by both the parties;

(i) whether wife has suppressed her income in it's entirety

(ii) whether wife's claim that she is unable to access her bank accounts or income tax portal, as the same allegedly contain the husbands email ID and mobile number

27. therefore, I do not find any perversity or impropriety in the finding of the court below which states that it is the duty of both the parties to disclose the actual earnings and non-disclosure of the same is akin to defraud the court and therefore, to ascertain whether wife is unable to maintain herself as required under section 125 Cr.P.C. or to grant monetary relief to meet the expenses or loses suffered by the aggrieved person, if any, as required under the DV Act, examination and cross examination on documentary and oral evidence is required.

28. However, I am not agreeable with the argument advanced on behalf of husband that the amount of maintenance awarded by the court below to the children which amounts to Rs. 25,000/- each, is exorbitant in view of the fact that the husband was not consulted before the children were admitted in two reputed institutions of the town where higher cost of education is involved. I also do not find much force in the husband's argument that since the education of the children in those schools involves fiscal decision, it cannot be unilateral and that the children could have been admitted in much lesser expensive school, considering the small and depreciating amount of earning.

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29. The court below while rejected the wife's claim of maintenance clearly held that the documents submitted by the mother shows that the education expenses for the two children are not less than 20,000/- per month per child. The wife has also prepared a chart during the course of argument which is as follows:-

> ***Kids School fees details***
> ***Vansh Agarwal in Sri Sri Academy (class-3)***
> *One time admission fess of Rs. 1,67,150 with 1018 online form charges.*
> *Session 2021-2022 (class lower nursery) the total fees was Rs. 53,200/- (pandemic so school took less fees)*
> *Session 2022-2023 (Class Upper nursery) the total fees was Rs. 1,14,000/-*
> *Session 2023-2024 (Class KG) the total fees was Rs. 1,26,000/-*
> *Session 2024-2025 (Class 1) the total fees was Rs. 1,38,600/-*
> *Session 2025-2026 (Class 2) the total fees was Rs. 1,52,400/-*
> *Session 2026-2027 (Class 3) Total fees was Rs. 1,67,640/- Monthly fees is Rs. 13,970/-*
> *First quarter (April to June) fees payed in April 2026-Rs. 41,910/-*
> *(Every year there is 10% increase in the total fees)*
> ***Maahir Agarwal in La Martiniere for Boys (class7)***
> *Session 2021-2022 (class 2) the total fees was Rs. 1,10,000/-*
> *Session 2022-2023 (Class 3) the total fees was Rs. 1,15,000/-*
> *Session 2023-2024 (Class 4) the total fees was Rs. 1,24,000/-*
> *Session 2024-2025 (Class 5) the total fees was Rs. 1,33,000/-*
> *Session 2025-2026 (Class 6) the total fees was Rs. 1,53,000/-*
> *Session 2026-2027 (Class 7) the total fees is Rs. 1,83,500/- Monthly fees is Rs. 15,291/-*
> *Combined fess of Approx Rs. 30000 is spent monthly on both children school fees which leaves only Rs. 20000 for both the children all other expenses.*

30. Therefore, the husband who is an able bodied person is under an obligation to meet the expenses incurred for their children and therefore granting of Rs. 25,000/- towards interim maintenance to both the children in the interest of their future prospect and welfare, does not suffer from perversity.

31. As such I do not find any reason to interfere with the finding made by the court below in the order dated 11.4.2023 passed in Criminal Motion No. 194 of 2022 with Criminal Motion No. 201 of 2022 and the same dated order passed in Criminal appeal no. 79 of 2022 and 80 of 2022. The criminal

revisional applications being no. CRR 2303 of 2023, CRR 2304 of 2023, CRR 2180 of 2023, CRR 2181 of 2023 are accordingly disposed of.

32. However, it is made clear that aforesaid observations made by this court are strictly confined for the purpose of disposal of interim maintenance application and shall not be construed as final at the time of final adjudication of the proceedings initiated under the provisions of Cr.P.C. as well as under the provision of DV Act. The learned Court is requested to dispose of both the applications filed under section 125 Cr.P.C. and under section 12 of DV Act preferably within a period of 6 months from this dated without granting any unnecessary adjournment to either of the parties and strictly on the basis of the evidence to be adduce by the parties and without being influence by any observation made herein.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)

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