R-1

Dismissed/Disposed-of

IN THE HIGH COURT OF DELHI AT NEW DELHI

NO. 82648 /Crl. Br. DATED 03/11/25

FROM:

The Registrar General,
High Court of Delhi,
New Delhi.

102319
03 NOV 2025
13.35 P.M.
Rohini District Courts, Delhi

TO:

1. The Ld. Principal District & Sessions Judge, Hq's (Central), Tis Hazari Courts, Delhi.
2. The Ld. Principal District & Sessions Judge, New Delhi, Patiala House Courts, Delhi.
3. The Ld. Principal District & Sessions Judge, North-West Distt., Rohini Courts, Delhi.
4. The Ld. Principal District & Sessions Judge, South-West Distt., Dwarka Courts, Delhi.
5. The Ld. Principal District & Sessions Judge, West Distt., Tis Hazari Courts, Delhi.
6. The Ld. Principal District & Sessions Judge, East Distt., Karkardooma Courts, Delhi.
7. The Ld. Principal District & Sessions Judge, South Distt., Saket Courts, Delhi.
8. The Ld. Principal District & Sessions Judge, Shahdara Distt., Karkardooma Courts, Delhi.
9. The Ld. Principal District & Sessions Judge, North-East Distt., Karkardooma Courts, Delhi.
10. The Ld. Principal District & Sessions Judge, North Distt., Rohini Courts, Delhi.
11. The Ld. Principal District & Sessions Judge-cum-Spl.Judge, (PC Act) (CBI), Rouse Avenue Court, Delhi.
12. The Ld. Principal District & Sessions Judge, South-East Distt., Saket Courts, Delhi.
13. Ld. Judge, Family Court-02, South-East, Saket Court, New Delhi.
14. The Director (Academics), Delhi Judicial Academy, H2XF+QH2, Pocket 1, Sector 14 Dwarka, Dwarka, Delhi, 110075.

CRL.REV.P.(MAT.) 123/2024 & CRL.M.A. 36001/2024, CRL.M.A. 3589/2025

Tasmeer Qureshi .....Petitioner

Versus

Asfia Muzaffar .....Respondent

Criminal revision petition filed against the judgement dated 30.03.2024 passed by the court of Ld. Judge, Family Court-02, South-East, Saket Court, New Delhi in MT No.43/2021.

Sir,

I am directed to forward herewith for immediate compliance/neccessary action, a copy of judgment/order dated **29/10/2025** passed by **Hon'ble Single Bench** of this court, in the above noted case.

Necessary directions are contained in the enclosed copy of order.

[redacted]

Yours faithfully

1/11/25

Admn. Officer (J)/Crl.I
for Registrar General

Encl.: A copy of Judgment dated **29.10.2025**
And memo of parties.

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE: ROHINI COURTS, DELHI

No. 40940-41012 Genl.I/F. 3(A)/N-W&N/RC/2025 Dated 10/11/2025

Copy alongwith its enclosures, forwarded **(through electronic mode)** for information & necessary action/compliance, to :-

1. All Ld. Judicial Officers posted at **N/W & North**, Rohini Courts, Delhi **(including family courts)**.
2. Dealing Official, Computer Branch, Rohini Courts for uploading the same on WEBSITE.
3. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on LAYERS.

(VINOD YADAV)
Officer In-Charge, General Branch-I

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

% *Judgment delivered on: 29.10.2025*

\+ **CRL.REV.P.(MAT.) 123/2024 & CRL.M.A. 36001/2024, CRL.M.A. 3589/2025**

TASMEER QURESHI .....Petitioner

Through: Ms. Jahanvi Worah (DHCLSC) and Mr. Rajat Oswal, Advocate

versus

ASFIA MUZAFFAR .....Respondent

Through: Mr. Mahtab Ali, Advocate

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

J U D G M E N T

Index to the Judgment

FACTUAL BACKGROUND 2
RIVAL CONTENTIONS.....4
ANALYSIS & FINDINGS.....7
BROADER OBSERVATIONS AND GUIDING PRINCIPLES ON DETERMINATION OF MAINTENANCE 14
(i) Guidelines in Rajnesh v. Neha.....15
(ii) Assessment of the Income of Parties 21
(iii) Necessity of Recording Reasons Even While Granting Interim Maintenance.....23
Avoiding Extremes of Over-Elaboration or Cryptic Orders in Maintenance Proceedings 27
(iv) Caution in Applying Minimum Wages Criteria While Assessing Notional Income of the Husband.....29
(v) Assessment of Wife's Employability after Marriage and Childbirth: A Realistic Perspective 31

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

Impact of Childcare Responsibilities on the Wife's Capacity to Work 32
Relocation after Marriage and the Practical Barriers to Re-Employment.. 33
(vi) Earning by the Wife Not Sole Ground to Deny Maintenance to Her and the Child in Her Custody 34
(vii) Living with Parents After Separation – No Ground to Deny or Reduce Maintenance 37
(viii) To Conclude 39
Understanding Maintenance Proceedings as Human Stories, Not Mere Legal Disputes 40
Recognising the Practical Challenges Faced by Family Courts and the Need for Balanced Adjudication 40

DR. SWARANA KANTA SHARMA, J

1. By way of this revision petition, the petitioner impugns order dated 30.03.2024 [hereafter '*impugned order*'] passed by the learned Family Court-02, South-East District, Saket Courts, Delhi [hereafter '*Family Court*'] in M.T. No. 43/2021, *vide* which the petitioner was directed to pay a total amount of ₹20,000/- per month as interim maintenance – comprising ₹15,000/- per month towards the respondent-wife and ₹5,000/- per month towards their minor son – with effect from the date of filing of the petition.

FACTUAL BACKGROUND

2. The brief facts necessary for adjudication are that the petitioner and the respondent were married on 03.10.2019 according to Muslim rites and customs. The factum of marriage is not in dispute between the parties. In January 2021, the respondent-wife instituted a petition under Section 125 of the Code of Criminal Procedure, 1973

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Signing Date:29.10.2025
19:59:56

[hereafter '*Cr.P.C.*'], alleging that after the marriage, when she began residing at her matrimonial home in Gwalior, Madhya Pradesh, the conduct of the petitioner-husband and his family members, including his parents, changed drastically. It was alleged that they subjected her to physical assault, verbal abuse, and harassment on trivial issues, and also demanded dowry. The respondent further alleged that upon informing the petitioner about her pregnancy, he became furious and pressurised her to terminate the pregnancy, or else bring ₹10,00,000/- from her parental home for expanding his business and for the "future needs" of the unborn child. It is further alleged that in September 2020, the petitioner brought her to Delhi, left her at her parental home, and thereafter abandoned her, and refused to take her back. Despite repeated attempts by the respondent to contact the petitioner, he had allegedly remained unresponsive. Consequently, she had filed the present petition under Section 125 of Cr.P.C., seeking maintenance of ₹30,000/- per month for herself as well as ₹3,00,000/- towards medical expenses, etc. in respect of her pregnancy. During the pendency of the proceedings, the respondent gave birth to a son while residing at her parental home.

3. The petitioner-husband filed his reply to the petition under Section 125 of Cr.P.C., denying all allegations levelled against him. Both parties also filed their respective affidavits of income, assets, and expenditure before the learned Family Court.

4. The learned Family Court, *vide* the impugned order dated 30.03.2024, directed the petitioner to pay interim maintenance of

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

₹15,000/- per month to the respondent-wife and ₹5,000/- per month towards the minor son, from the date of filing of the petition.

RIVAL CONTENTIONS

5. Aggrieved by the impugned order, the learned counsel appearing for the petitioner-husband contends that the same has been passed without due application of mind and without considering the peculiar facts of the present case. It is submitted that this was the second marriage of both parties, arranged through a matrimonial website, solemnized in a simple manner without any exchange of dowry. The learned counsel submits that the respondent–wife was employed as a teacher till 18.03.2019, i.e., up to the time of her marriage. Although the petitioner does not have exact knowledge of her salary, it is stated that she was gainfully employed prior to marriage and, in addition, was running an online garment business through WhatsApp using a number registered as a business account. It is further argued that the petitioner, though holding an MBA degree, had lost his job in September 2019, shortly before the marriage, and that the respondent was aware of his unemployment at that time. The petitioner had earlier been employed between 19.07.2013 and 04.01.2019, but has since been unable to secure any job despite efforts. The learned counsel submits that the petitioner had filed a detailed reply to the respondent's petition under Section 125 of Cr.P.C., along with an affidavit of income, assets, and bank statements before the learned Family Court. The said affidavit,

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

drafted and filed by the petitioner himself, contains certain inadvertent errors noted in the impugned order. It is submitted that the expenses towards the petitioner's minor son from his first marriage, who is in his care and custody, were inadvertently mentioned as ₹3,000/- in the affidavit, representing only educational expenses, though actual expenses are higher. The petitioner resides with his ailing mother and bears her medical and household expenses, as well as those of his 13-year-old son. It is argued that his bank account statement with HDFC Bank reflects the absence of any regular income or salary and shows that he has been dependent upon loans from his brother to meet daily expenses. The learned counsel further submits that the learned Family Court erroneously recorded that the petitioner had concealed his ICICI Bank account. It is contended that this account was his previous salary account and has remained inoperative for a considerable period, with zero balance and no recent transactions, as shown in the statement of account dated 31.01.2024, annexed with the present petition. In these circumstances, it is submitted that the impugned order has been passed without properly appreciating the petitioner's financial incapacity and should therefore be set aside.

6. On the other hand, the learned counsel appearing for the respondent-wife submits that there is no infirmity or illegality in the impugned order warranting interference by this Court. It is contended that the amount of interim maintenance awarded by the learned Family Court is modest and reasonable, keeping in view the needs of

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

the respondent and the minor child. The petitioner, it is urged, is a man of means and has deliberately suppressed his true income to avoid his legal obligations. It is argued that at the time of separation, the petitioner was employed with a multinational company, earning more than ₹70,000/- per month, as disclosed by him to the respondent, and is presently engaged in the business of electrical appliances, which he supplies to wholesalers in Bhopal Market, Madhya Pradesh. It is further alleged that he employs 8-10 labourers in the said business and earns more than ₹1,00,000/- per month. In addition, it is submitted that the petitioner owns a house in Gwalior, Madhya Pradesh, and a shop in Rampur, Uttar Pradesh, from which he draws rental income, which was initially ₹10,000/- per month and has since increased substantially. Despite having sufficient means, the petitioner has neglected and refused to maintain the respondent and the minor child and has filed the present petition only to evade his lawful responsibility. The learned counsel categorically denies that the respondent is employed or running any online garment business and submits that she is fully occupied in caring for her 4 year old son. Accordingly, it is prayed that the revision petition be dismissed as devoid of merit.

7. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent, and has perused the material available on record.

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Signing Date:29.10.2025
19:59:56

ANALYSIS & FINDINGS

8. To appreciate and adjudicate the rival contentions raised before this Court on behalf of the petitioner and the respondents, it shall be necessary to take note of the operative portion of the impugned order dated 30.03.2024, which is set out below:

> "9. To show that respondent has sufficient capacity to pay, petitioner asserted that that respondent is working in MNC and is getting handsome salary. Respondent once told the petitioner that he had invested Rs. 6,00,000/- in fixed deposits and was having balance of approximate Rs. 2,00,000/- in HDFC Bank account No. 50100333912302. He had also some money in ICICI Bank account No. 005501544848 and one Volkswagen Polo Car.
>
> 10. As per the affidavit of assets, income and expenditure sworn and verified on 26.07.2023 filed by the respondent, he is an MBA but unemployed. The respondent also mentioned his monthly expenditure as Rs. 3,000/- which includes expenses of his son from first marriage also. Respondent filed his bank account statement in HDFC bank for the period 01.01.2021 to 28.07.2023 whereby there was opening balance of Rs. 1,45,489/- Credit of Rs. 15,45,131/- and debit of 16,86,542/- As per certificate of service dated 04.01.2019, he was in the service of Blue Star Ltd. since July 19,2013 and his last drawn emoluments included a basic of Rs. 26,080/- plus other allowances and perks. He left the job w.e.f. 04.01.2019.
>
> 11. A bare perusal of aforesaid affidavit and bank account statement filed by the respondent would indicate that he has not made complete disclosure of his income. Admittedly, he is professionally qualified and was also employed with Blue Star Ltd. from 19.07.2013 till 04.01.2019. His bank account statement also indicate substantial transactions. He filed account statement of one bank ie., HDFC bank though petitioner alleged and provided his two bank account nos. Respondent is silent about owning Volkswagen Polo Car. Strangely, respondent is claiming that his monthly expenses are to the tune of merely Rs. 3000/-which also includes the expenditure being incurred on his son from first wife. This simply does not appeal to common sense. It appears that respondent is trying to avoid his responsibilities towards

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

petitioner as well as his new born son.

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15. Further, petitioner has no independent source of income and is unable to maintain herself and her one-year child namely Danial Ahmad. She is residing at her parental home. Petitioner claimed that she was not working anywhere, has no source of income and thus is unable to maintain herself. She does not own any immovable property. As per the affidavit of assets and liabilities dated 28.07.2023 filed by the petitioner, she is incurring monthly expenses to the tune of Rs. 30,000/- per month. Though respondent filed one certificate to show that petitioner was doing the job of a teacher from 28.08.2016 to 18.03.2019 in Bachpan School, Shahjahanpur, the fact remains that she is residing at her parental home after respondent left her there during her pregnancy. Afterwards, she was blessed with a son so there can be no occasion for her to get a job.

16. In the entire facts and circumstances brought on record so far, I have no hesitation to hold that the respondent is a man of means and has sufficient capacity to pay maintenance to the petitioner.

17. The upshot of above discussed facts and circumstances and legal propositions laid down by the superior Courts is that the respondent is having sufficient means and is duty bound to maintain the petitioner and his son who are unable to maintain themselves and provide them a reasonable amount towards maintenance so that their daily and medical expenses are met, both of them may have nutritious diet and are able to lead a reasonably comfortable life style of the same standard as that of respondent.

18. Accordingly, the respondent is directed to pay an allowance of Rs. 15,000/- to petitioner (wife) and Rs. 5,000/- to his son per month i.e., total Rs.20,000/- p.m. from the date of filing of the petition till they are legally entitled to receive the same. Aforesaid amount would be transferred directly in the bank account of petitioner (wife). The respondent is also directed to clear the arrears accrued to date within three months in equal monthly installments. The default shall be viewed in terms of Gaurav Sodhi v Diya Sodhi 120 (2005) DLT 426. It is also clarified that as per law, the petitioners shall be entitled to receive maintenance of the highest amount of the other amount if any, awarded to them by other Courts.

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Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

> 19. Application seeking interim maintenance is accordingly disposed of."

9. The learned Family Court has rightly noted that as per the affidavit of assets, income and expenditure filed by the petitioner, though he claimed to be unemployed, he had mentioned his monthly expenditure as merely ₹3,000/-, which he stated included the expenses of his son from his first marriage, and the same was improbable and unbelievable as it does not appeal to common sense that a person who is maintaining himself, his mother, and a school-going son can manage all expenses within such a nominal amount. This Court concurs with the said observation. The learned Family Court has further taken note of the petitioner's bank statement of his HDFC Bank account for the period 01.01.2021 to 28.07.2023, which revealed an opening balance of ₹1,45,489/-, total credits amounting to ₹15,45,131/-, and total debits of ₹16,86,542/-. Although the learned Family Court did not specify the nature or periodicity of these transactions i.e. whether these entries were over a period of time, yet the record shows that there were substantial credit entries amounting to over ₹15 lakhs during a span of about two and a half years. Apparently, it is the petitioner's case that he had left his job on 04.01.2019, therefore, it is questionable as to how there were credit entries of Rs.15,45,131/- after in the period 2021-23, in case he was unemployed. The learned Family Court has, therefore, rightly observed that the petitioner herein has failed to disclose his true income.

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Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

10. The learned Family Court has also rightly noted that the petitioner did not disclose ownership of his Volkswagen Polo car and failed to furnish details of his other bank account maintained with ICICI Bank, despite the same being brought to his notice by the respondent. In these circumstances, the learned Family Court drew an adverse inference that the petitioner is a man of means and has sufficient capacity to maintain the respondent and their minor child.

11. Before this Court, the petitioner has placed on record a statement of account pertaining to his ICICI Bank account, ostensibly to demonstrate that the said account has a nil balance. However, the statement produced reflects transactions only for the month of January 2024 and does not disclose any entries for the preceding years. It is an admitted position that the petitioner did not furnish the complete bank statements of this account for the period 2021–2023 before the learned Family Court, or before this Court.

12. This Court also notes that the petitioner has failed to place on record any material or evidence to establish that the respondent–wife is presently employed or earning any income. The mere fact that she was working prior to marriage, by itself, cannot lead to the conclusion that she continues to be employed after marriage, particularly when there is no evidence to that effect. It is a matter of common knowledge, and social reality, that in India, many women are either compelled, persuaded, or advised to leave their employment after marriage in order to devote themselves to domestic responsibilities or to the care of children and elderly family members.

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

Such decisions, often made in good faith and for the well-being of the family, cannot later be turned against them when marital disputes arise.

13. It is, therefore, misplaced for a husband to rely solely on the plea that the wife "was working earlier" to evade his legal obligation to maintain her. A woman who gives a hiatus to her career to support her family makes a personal and professional sacrifice, which, in a harmonious marriage, may go unnoticed or be silently valued. However, when marital discord arises and parties get separated, that very sacrifice is too often portrayed as a devilish act intended to extract money from the husband. Such sweeping assumptions are not only unfair but deeply insensitive to the social and emotional realities that women face. Every case must, therefore, be assessed on its own facts and circumstances, rather than through generalized or gendered presumptions.

14. In cases like the present one, where the respondent-wife was left at her parental home during pregnancy, delivered a child there, and has since been living with her parents without any financial or emotional support from the husband, the Court must adopt a practical and humane approach. The petitioner's claim that he is sustaining himself and his son from his first marriage on a meagre monthly expenditure of ₹3,000/- does not inspire confidence. Courts, while adjudicating such matters, cannot turn a blind eye to the economic realities of life. Judges, as members of society, are expected to apply their understanding of these lived realities to ensure that justice is not

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Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

confined to paper, but resonates with the truth of ordinary existence. Judicial decisions in family matters must, therefore, be informed by both legal principle and social understanding.

15. This Court is of the opinion that the respondent-wife's assertion that she is presently unemployed, burdened with the responsibility of single-handedly caring for her young child, and residing with her parents without any independent source of income, is credible in the absence of any evidence to the contrary. Her situation reflects the reality faced by many women who, despite their education or past employment, find it difficult to rejoin the workforce after years of domestic duties and childcare responsibilities.

16. Furthermore, living in the parental home after marriage carries its own emotional and social challenges, especially in Indian society, where such a return is often viewed with stigma or familial discomfort. A married daughter returning to her parental home is often not treated as a mere return for a physical shelter, but it rather represents a collapse of emotional security and social standing. These realities also deserve judicial recognition. It is time that such hardships, faced by women who are compelled to return to their parental homes in distress, are acknowledged, in deserving cases, with empathy and reflected while adjudicating and determining the quantum of maintenance. Each case cannot be painted with the same brush.

17. This Court, however, finds one significant aspect of the

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

impugned order that calls for interference by this Court. After recording the findings that the petitioner had concealed his true income and was a man of means with sufficient financial capacity to maintain the respondent and the minor child, the learned Family Court proceeded to award a total maintenance of ₹20,000/- per month. However, the order does not disclose any assessment – either actual or notional – of the petitioner's monthly income on the basis of which this quantum was determined. The omission to record even a tentative finding regarding the petitioner's earning capacity or notional income leaves the basis of the determination of maintenance unclear. Even while taking a *prima facie* view at the interim stage, the learned Family Court is expected to indicate, at least in broad terms, the income presumed or assessed from the available material, as that forms the very foundation of determining the quantum of maintenance. Absence of such an assessment makes it difficult to discern how the figure of ₹20,000/- was arrived at.

18. In view of the above discussion, this Court is of the opinion that the impugned order cannot be sustained in its present form. While the learned Family Court rightly observed that the petitioner had concealed his true income and possessed sufficient means, it proceeded to fix the amount of maintenance without recording any assessment of his income or indicating the basis on which the figure of ₹20,000/- per month was arrived at.

19. Accordingly, the impugned order is set aside and **the matter is remanded back to the learned Family Court** for a fresh

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

determination of interim maintenance, on the basis of the material available on record and in accordance with the principles governing grant of maintenance, after taking note of the observations made in the present judgment.

20. The learned Family Court shall pass a reasoned order afresh within a period of one month from the date of receipt of a copy of this judgment. All rights and contentions of the parties on merits are left open to be urged before the learned Family Court.

BROADER OBSERVATIONS AND GUIDING PRINCIPLES ON DETERMINATION OF MAINTENANCE

21. Before parting with this case, this Court finds it necessary to make certain broader observations on the manner in which maintenance proceedings are being conducted before the learned Family Courts. This Court has repeatedly found itself flooded with petitions and challenges arising out of orders of ad-interim, interim or final maintenance, which reveal a pattern of deviation from the settled legal principles governing such cases. Despite the detailed directions and guidelines laid down by the Hon'ble Supreme Court in a catena of judgments, and specifically in ***Rajnesh v. Neha*****:** *(2021) 2 SCC 324*, the same are not being followed in their true letter and spirit. Orders passed by the learned Family Courts, which are often impugned before this Court, continue to reflect either a mechanical approach or a lack of clarity in assessing income of the spouse, determining quantum of maintenance, and recording reasons. The issue, therefore, calls for reiteration of certain basic principles and

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Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

safeguards that learned Family Courts must bear in mind while dealing with petitions for maintenance, and more particularly while granting interim maintenance, so that the object of these proceedings can be truly achieved.

(i) Guidelines in Rajnesh v. Neha

22. The decision of the Hon'ble Supreme Court in ***Rajnesh v. Neha*** *(supra)*, stands as a guiding star for the courts across the country on the manner in which the applications for interim maintenance, or even petitions for maintenance at final stage, are to be considered and decided by the learned Family Courts. The said decision not only consolidates the law on maintenance under various statutes but also lays down a comprehensive framework to ensure uniformity, fairness, and transparency in such proceedings. It recognizes the inherent difficulties faced by Family Courts in assessing income due to incomplete or misleading disclosures by parties, and prescribes a structured procedure through filing of mandatory affidavits of assets and liabilities, which enables the Courts to make an informed and objective assessment of financial capacity.

23. However, despite the same, it is a matter of concern that the guidelines set out in ***Rajnesh v. Neha*** *(supra)* are often not followed in its true letter and spirit by the learned Family Courts. This Court therefore finds it appropriate to first reproduce the relevant portion of the said judgment, which elaborates on the principles governing

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

payment of interim maintenance and enumerates the criteria to be considered while determining the quantum of maintenance:

> " ***II. Payment of Interim Maintenance***
>
> **62**. xxx xxx xxx
>
> **63**. At present, the issue of interim maintenance is decided on the basis of pleadings, where some amount of guess-work or rough estimation takes place, so as to make a prima facie assessment of the amount to be awarded. It is often seen that both parties submit scanty material, do not disclose the correct details, and suppress vital information, which makes it difficult for the Family Courts to make an objective assessment for grant of interim maintenance. While there is a tendency on the part of the wife to exaggerate her needs, there is a corresponding tendency by the husband to conceal his actual income. It has therefore become necessary to lay down a procedure to streamline the proceedings, since a dependant wife, who has no other source of income, has to take recourse to borrowings from her parents/relatives during the interregnum to sustain herself and the minor children, till she begins receiving interim maintenance.
>
> **64**. xxx xxx xxx
>
> **65**. The party claiming maintenance either as a spouse, or as a partner in a civil union, live-in relationship, common law marriage, should be required to file a concise application for interim maintenance with limited pleadings, alongwith an Affidavit of Disclosure of Assets and Liabilities before the concerned court, as a mandatory requirement. On the basis of the pleadings filed by both parties and the Affidavits of Disclosure, the Court would be in a position to make an objective assessment of the approximate amount to be awarded towards maintenance at the interim stage.
>
> xxx xxx xxx
>
> ***III. Criteria for determining quantum of maintenance***
>
> **77.** The objective of granting interim/permanent alimony is to ensure that the dependant spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

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Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

78. The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependant children; whether the Applicant is educated and professionally qualified; whether the Applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the Applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife.

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

80. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications.

81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the Respondent, and the standard of living that the Applicant was accustomed to in her matrimonial home. The maintenance

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the Respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.

82. Section 23 of HAMA provides statutory guidance with respect to the criteria for determining the quantum of maintenance. Sub-section (2) of Section 23 of HAMA provides the following factors which may be taken into consideration: (i) position and status of the parties, (ii) reasonable wants of the claimant, (iii) if the Petitioner/claimant is living separately, the justification for the same, (iv) value of the claimant's property and any income derived from such property, (v) income from claimant's own earning or from any other source.

83. Section 20(2) of the D.V. Act provides that the monetary relief granted to the aggrieved woman and/or the children must be adequate, fair, reasonable, and consistent with the standard of living to which the aggrieved woman was accustomed to in her matrimonial home.

84. The Delhi High Court in *Bharat Hedge v. Smt. Saroj Hegde* laid down the following factors to be considered for determining maintenance: (SCC OnLine Del para 8)

> "1. Status of the parties.
>
> 2. Reasonable wants of the claimant.
>
> 3. The independent income and property of the claimant.
>
> 4. The number of persons, the non-applicant has to maintain.
>
> 5. The amount should aid the Applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.
>
> 6. Non-Applicant's liabilities, if any.
>
> 7. Provisions for food, clothing, shelter, education, medical attendance and treatment etc. of the applicant.
>
> 8. Payment capacity of the non-applicant.
>
> 9. Some guess work is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.

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By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

10. The non-applicant to defray the cost of litigation.

11. The amount awarded Under Section 125 Code of Criminal Procedure is adjustable against the amount awarded Under Section 24 of the Act."

85. Apart from the aforesaid factors enumerated hereinabove, certain additional factors would also be relevant for determining the quantum of maintenance payable.

(a) Age and employment of parties

86. In a marriage of long duration, where parties have endured the relationship for several years, it would be a relevant factor to be taken into consideration. On termination of the relationship, if the wife is educated and professionally qualified, but had to give up her employment opportunities to look after the needs of the family being the primary caregiver to the minor children, and the elder members of the family, this factor would be required to be given due importance. This is of particular relevance in contemporary society, given the highly competitive industry standards, the separated wife would be required to undergo fresh training to acquire marketable skills and re-train herself to secure a job in the paid workforce to rehabilitate herself. With advancement of age, it would be difficult for a dependant wife to get an easy entry into the work-force after a break of several years.

(b) xxx xxx xxx

87. xxx xxx xxx

88. xxx xxx xxx

89. xxx xxx xxx

(c) Where wife is earning some income

90. The Courts have held that if the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband. The Courts have provided guidance on this issue in the following judgments.

90.1. In *Shailja and Anr. v. Khobbanna*, this Court held that merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court. The Court has to determine whether the income of the wife is sufficient to enable her to maintain herself, in accordance with the lifestyle of her husband in the matrimonial home. Sustenance does not mean, and cannot be allowed to

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

mean mere survival.

90.2. In *Sunita Kachwaha and Ors. v. Anil Kachwaha* the wife had a postgraduate degree, and was employed as a teacher in Jabalpur. The husband raised a contention that since the wife had sufficient income, she would not require financial assistance from the husband. The Supreme Court repelled this contention, and held that merely because the wife was earning some income, it could not be a ground to reject her claim for maintenance.

90.3. The Bombay High Court in *Sanjay Damodar Kale v. Kalyani Sanjay Kale* while relying upon the judgment in *Sunita Kachwaha*, held that neither the mere potential to earn, nor the actual earning of the wife, howsoever meagre, is sufficient to deny the claim of maintenance.

90.4. An able-bodied husband must be presumed to be capable of earning sufficient money to maintain his wife and children, and cannot contend that he is not in a position to earn sufficiently to maintain his family, as held by the Delhi High Court in *Chander Prakash Bodhraj v. Shila Rani Chander Prakash*. The onus is on the husband to establish with necessary material that there are sufficient grounds to show that he is unable to maintain the family, and discharge his legal obligations for reasons beyond his control. If the husband does not disclose the exact amount of his income, an adverse inference may be drawn by the Court.

90.5. This Court in *Shamima Farooqui v. Shahid Khan* cited the judgment in *Chander Prakash* with approval, and held that the obligation of the husband to provide maintenance stands on a higher pedestal than the wife.

(d) Maintenance of minor children

91. The living expenses of the child would include expenses for food, clothing, residence, medical expenses, education of children. Extra coaching classes or any other vocational training courses to complement the basic education must be factored in, while awarding child support. Albeit, it should be a reasonable amount to be awarded for extra-curricular/coaching classes, and not an overly extravagant amount which may be claimed.

92. Education expenses of the children must be normally borne by the father. If the wife is working and earning sufficiently,

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

> the expenses may be shared proportionately between the parties.
>
> ***(e) Serious disability or ill health***
>
> **93**. Serious disability or ill health of a spouse, child/children from the marriage/dependant relative who require constant care and recurrent expenditure, would also be a relevant consideration while quantifying maintenance. ”

24. These directions and guidelines are of utmost significance and are required to be scrupulously followed by all the learned Family Courts while adjudicating maintenance petitions to ensure consistency and objectivity in the orders, and also that the object of law of maintenance law, i.e. to provide timely financial support and preserve the dignity of the dependant spouse and children, is not defeated by orders passed without a proper assessment of income, without application of mind to the material on record, or without due consideration of the factors mandated by law.

(ii) Assessment of the Income of Parties

25. This Court is of the view that in maintenance proceedings, particularly where the wife has approached the Family Court seeking financial support, it is of primary importance that the income of the spouse is first assessed. The process of determining maintenance cannot begin or end with assumptions – it must rest on an assessment of the earning capacity of the person from whom maintenance is sought. If both spouses are earning, the income of each must be examined. However, where the wife is not employed or has no independent source of income, the focus naturally shifts to the

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Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

income of the husband, which becomes the foundation for fixing the amount of maintenance payable.

26. Such assessment of income may be of two kinds. In cases where documentary evidence such as salary slips, bank statements, or income tax returns are available, the Family Court can take the actual income as discernible from the record. However, in many cases, husbands either fail to disclose their true income, conceal relevant details, or claim to be unemployed despite indications to the contrary. In such circumstances, the Family Courts must make a reasonable and fair assessment of the husband's *notional income*, taking into account his educational qualifications, professional background, past employment, lifestyle, bank transactions, and other material placed on record.

27. At the stage of interim maintenance, this exercise is necessarily brief and *prima facie* in nature. The Court is not expected to conduct a detailed inquiry, but it must at least indicate the basis on which the income has been assessed, even if approximately. Later, at the stage of final determination, once evidence is led by both sides, the assessment should be carried out in a complete and detailed manner, taking into account the entire material on record. Such a two-stage process ensures both prompt relief and eventual accuracy.

28. Once the income, whether actual or notional, is determined, the Family Court must then proceed to apportion the same among the dependents, including the wife and any children, keeping in view

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

their reasonable needs and standard of living. Guidance in this regard is provided in the decision of ***Annurita Vohra v. Sandeep Vohra:*** *2004 SCC OnLine Del 192*.

29. *In the present case*, the impugned order records that the petitioner had concealed his true income and was a man of means, and on that basis, directs him to pay ₹20,000/- per month towards the maintenance of the respondent and their minor son. However, the order does not indicate what income of the petitioner was presumed by the learned Family Court while arriving at this figure. It also remains unclear which dependents of the petitioner were taken into account while assessing his financial capacity, and how much portion of his income was apportioned towards the maintenance of the wife and the minor child. In the absence of such clarity, it becomes difficult to ascertain the rationale behind the quantum of maintenance awarded, and whether it bears a reasonable relationship to the petitioner's presumed or actual earning capacity.

30. **Therefore**, assessing income is the first and most crucial step, as maintenance cannot be determined in vacuum. Only after establishing what the earning spouse actually earns, or can reasonably be expected to earn, can a just and proportionate amount be fixed towards the sustenance of those who are entitled to be maintained.

(iii) Necessity of Recording Reasons Even While Granting Interim Maintenance

31. This Court has also noticed that the interim maintenance orders

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

often passed by the learned Family Courts are devoid of any reasoning, and do not record the factors considered while arriving at the quantum of maintenance. In several cases, the orders are cryptic, containing only the operative portion directing the payment of a particular amount, without disclosing what income was presumed or accepted to be earned by the husband or wife, or on what basis such presumption was drawn.

32. Such an approach not only falls short of the mandate of law but also renders it impossible for either party, and indeed for the appellate or revisional court, to discern the foundation of the decision. Maintenance proceedings, whether under Section 125 of Cr.P.C., Section 24 of the Hindu Marriage Act, 1955, or Section 20 of the Protection of Women from Domestic Violence Act, 2005, directly affect the sustenance and dignity of the parties involved. Therefore, even a *prima facie* assessment must be accompanied by a reasoned indication of the material that weighed with the court.

33. The law consistently emphasizes that reasons are the soul of a judicial order. The Hon'ble Supreme Court has repeatedly held that orders passed by the Courts must disclose the rationale on which they are founded, so that the litigants and the higher courts can understand the process by which the conclusion has been reached. An order bereft of reasons, even if well-intentioned, cannot stand the test of judicial scrutiny.

34. While it may not be expected of the learned Family Courts to

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

deliver an elaborate or exhaustive order akin to a final judgment while deciding applications for interim maintenance, it is nonetheless important that such orders reflect a basic application of judicial mind to the material available on record. Even at the stage of forming a *prima facie* view, the order must disclose the reasoning process through which the learned Court arrived at the figure of maintenance or, conversely, the reasons for denying the same.

35. While determining interim maintenance, the learned Family Courts are expected to make at least a provisional assessment of the income earned by a spouse, who is being directed to pay interim maintenance, based on the affidavits, documents, and submissions before it. Even if such assessment is tentative and subject to final determination, the order must record: (i) what material has been considered; (ii) what income or earning capacity has been assumed; and (iii) how that assumption has translated into the figure of interim maintenance fixed.

36. It has also been noticed by this Court that in several cases, the learned Family Courts are passing orders of maintenance purely on the basis of presumption and imagination, rather than on the strength of the material placed on record. While a certain degree of estimation may be inevitable at the stage of interim maintenance, such estimation must always have a rational foundation in the affidavits of income, documents, or other material available before the Court.

37. This Court is conscious that interim maintenance orders are

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

often required to be passed expeditiously to alleviate financial hardship, and therefore cannot be expected to contain detailed financial calculations. However, expedition cannot come at the cost of reason. Even a brief but clear articulation of the basis for the decision is sufficient to demonstrate judicial application of mind.

38. At the stage of considering an application for interim maintenance, the primary focus of the learned Family Court must be on making a fair and reasonable assessment of the material placed before it. The stage of evidence, where parties will have the opportunity to fully substantiate their claims and defences, is yet to come. Therefore, at this initial stage, the assessment necessarily remains *prima facie*, based on the affidavits of income and assets filed by both parties and the other documents available on record. However, as mandated by the Hon'ble Supreme Court in ***Rajnesh v. Neha*** *(supra)*, such assessment cannot be made in a vacuum. It must be carried out holistically, taking into account the disclosures made, the conduct of the parties, and whether either side appears to have withheld or misrepresented material facts before the Court.

39. It needs to be borne in mind that an order of maintenance, whether granting or denying relief, imposes significant legal and financial consequences. It not only places a monetary obligation on one party but also determines the immediate sustenance and dignity of the other. Therefore, even at the interim stage, the order must disclose the reasoning process and the basis on which the Court has arrived at the quantum of maintenance or has declined to grant it.

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

Passing an order without a clear indication of how income was assessed or what material was relied upon creates ambiguity and often leads to difficulties in enforcement or challenge at a later stage.

40. Thus, whether maintenance is granted or denied, the order must reflect judicial application of mind to the material before it.

41. **Therefore**, this Court is of the view that while brevity in interim orders is permissible, absence of reasoning is not. Even a *prima facie* or tentative view must be reasoned and must reflect: **(i)** the documents and material relied upon for assessing income; **(ii)** the approximate income or earning capacity that has been presumed; and **(iii)** the rationale for the amount directed to be paid as interim maintenance.

Avoiding Extremes of Over-Elaboration or Cryptic Orders in Maintenance Proceedings

42. This Court has also observed another recurring concern in the nature and quality of orders being passed in maintenance proceedings. The orders received are often found to be either unduly lengthy, reproducing the pleadings and factual narration almost verbatim, or, on the other hand, so brief and cryptic that they fail to reveal any reasoning at all. Both extremes defeat the purpose of a well-reasoned judicial order. While unnecessary elaboration by way of mechanical reproduction of pleadings adds no value and obscures the real reasoning, a cryptic order without discussion of the relevant material reflects non-application of mind. What is required is a

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

balanced approach, i.e. an order that records the essential facts, notes the relevant material considered, and clearly sets out the reasoning leading to the determination of maintenance, even if in brief terms.

43. Passing of an order of interim maintenance cannot be treated as a mere procedural formality, for such an order carries with it a profound human and social dimension, as it directly concerns the immediate sustenance of a spouse who may be without any independent means of livelihood. The very object of granting interim maintenance is to ensure that the dependent spouse is not rendered destitute during the pendency of litigation. It is meant to provide a measure of financial support to meet basic needs such as food, shelter, clothing, and healthcare, as these needs cannot wait for the final adjudication of the case.

44. In many cases, the wife and children are entirely dependent upon such interim support for their day-to-day survival. Their ability to maintain a dignified existence, to continue the education of children, and to meet household expenses often hinges upon the timely and adequate determination of interim maintenance. Therefore, the passing of such an order demands promptness, sensitivity, and due application of mind. The learned Family Courts must bear in mind that delay or casualness in this process may have the effect of depriving an already vulnerable person of basic sustenance, defeating the very purpose of the provision intended to protect and uphold the right to live with dignity.

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

(iv) Caution in Applying Minimum Wages Criteria While Assessing Notional Income of the Husband

45. Another issue which is relevant to highlight is the practice in which the learned Family Courts, faced with non-disclosure or evasive disclosure of income by the husband or where a husband pleads that he earns nothing, proceed to assess earning capacity by resorting to the schedule of minimum wages. The underlying rationale is sound – an able-bodied man cannot be permitted to defeat a claim for maintenance by his wife by withholding basic financial particulars [Ref: ***Shamima Farooqui vs. Shahid Khan:*** *(2015) 5 SCC 705;* ***Rajnesh v. Neha*** *(supra)*], and the Family Court is entitled to draw an adverse inference and impute at least a baseline earning capacity. Minimum wages provide a statutory and reasonable basis to assess a person's earning capacity when there is no direct or reliable proof of actual income available on record.

46. However, the method must be applied with accuracy and care. Minimum wages are not uniform across India; they vary by State/Union Territory, by scheduled employment, and by skill category (unskilled, semi-skilled, skilled, or highly skilled), and they are periodically revised. The learned Family Courts must therefore:

(i) identify the correct State,

(ii) determine the appropriate skill category on a *prima facie* view of the husband's qualifications, experience and past vocation, and

(iii) note the effective date of the minimum wage schedule relied upon.

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

47. Orders that simply assume "minimum wages in Delhi" without examining whether the husband resides or is ordinarily employed in another State result in a higher or lower income assessment. For instance, if the husband resides in the State of Haryana and there is no proof that he is employed in Delhi, the minimum wage schedule applicable in Haryana has to be applied. The inadvertent practice of applying Delhi's minimum wages merely because the proceedings are before a court in Delhi or because the wife resides in Delhi ought to be avoided.

48. However, it is also to be considered that minimum wages are a floor, not a ceiling. If the record supports a higher *prima facie* income (for instance, on the basis of prior salary slips, tax returns, bank account statements, etc.), the Family Court should assess the income accordingly rather than resorting to default minimum wages.

49. It must also be borne in mind that minimum wages notified by each State are periodically revised. Therefore, while determining the income for a past period, the Family Court must refer to the minimum wages that were in force at that time, and not to the rates prevailing on the date of the order. For instance, if the income of the husband for the year 2022 is under consideration, the Court should take into account the minimum wages applicable in 2022 for the relevant category and State, rather than the revised figures of 2025.

50. **To sum up**, assessing income on the basis of minimum wages is a legitimate and often necessary exercise while adjudicating

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

maintenance petitions, particularly at the stage of interim or ad-interim maintenance. However, such assessment must be premised on the correct State schedule, the appropriate skill category, and the relevant period for which the income is being considered.

(v) Assessment of Wife's Employability after Marriage and Childbirth: A Realistic Perspective

51. An argument often raised before the learned Family Courts is that the wife is well-educated, professionally qualified, and had been employed or earning prior to her marriage, and therefore, she should not be entitled to maintenance, or that her earning capacity should be presumed. While such an argument may appear reasonable at first glance, it overlooks the practical and legal realities that accompany marriage, relocation, and motherhood.

52. The capacity to earn cannot be assessed in isolation from the life circumstances in which the wife presently finds herself. Her prior employment or academic qualifications may indicate her potential, but they do not automatically translate into current employability or financial independence, particularly after years devoted to family care and household responsibilities. It is now well settled in law that mere capability to earn is not a ground to deny or reduce maintenance. The Hon'ble Supreme Court, in ***Shailja & Anr. v. Khobbanna****: (2018) 12 SCC 199*, categorically held that *"merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court."*

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

What has to be determined is whether her income, if any, is sufficient to enable her to maintain herself with reasonable comfort and dignity, consistent with the standard of living enjoyed in the matrimonial home. The Supreme Court emphasized that *"sustenance does not mean, and cannot be allowed to mean, mere survival."*

53. Further, in ***Rajnesh v. Neha**: (2021) 2 SCC 324*, the Hon'ble Supreme Court elaborated on this principle in the context of long-duration marriages, observing that where a wife, though educated and professionally qualified, had to give up her employment opportunities to look after the needs of the family, minor children, or elderly members, this circumstance must receive due consideration. It was also observed that after several years of being away from professional life, it would be unrealistic to expect her to re-enter a highly competitive workforce without retraining or upgrading her skills. With the advancement of age, such re-entry becomes even more difficult, and therefore, past employment cannot be treated as a continuing or readily available source of income.

Impact of Childcare Responsibilities on the Wife's Capacity to Work

54. This Court is also of the opinion that **childcare is not a marginal or secondary responsibility**, but a full-time commitment that constrains the mother's ability to engage in regular employment. When the wife is the primary caregiver – especially to a young child, a child with special needs, or in the absence of dependable family support – her availability for work is substantially reduced. These

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

practical limitations are not temporary inconveniences but enduring realities that must be given due weight while determining maintenance. To deny or reduce maintenance merely because the wife "was working before marriage" ignores how caregiving fundamentally transforms a person's time, opportunities, and employability.

Relocation after Marriage and the Practical Barriers to Re-Employment

55. The **factor of relocation after marriage** also cannot be overlooked. A woman who had previously been employed in one city may, upon marriage, have moved to another city or even another State. The new environment may be unfamiliar, and the employment opportunities, market structure, or working conditions may be entirely different. After a career break extending several years, seeking employment afresh becomes a challenging task as skills may have become outdated, professional contacts lost, and many employers hesitate to hire after prolonged gaps. The challenge is far greater where the woman has sole custody of a child and she has to balance domestic responsibilities with financial needs.

56. Thus, while assessing maintenance, the Family Court must adopt a practical, equitable, and sensitive approach rather than one based on theoretical earning capacity. The purpose of maintenance law is not punitive but protective, and it seeks to prevent destitution and ensure that a spouse is able to live with dignity during and after the pendency of matrimonial proceedings.

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

57. Where appropriate, the Family Court may encourage such a wife to get herself gainfully employed, but such expectations must be realistic and tailored to the wife's present circumstances.

58. **This approach is not about taking sides or favouring one party over the other**; it is about ensuring that the law is applied with fairness, realism, and sensitivity to the circumstances of both spouses. The Family Court, therefore, must approach such cases with a balanced and humane outlook, ensuring that its **orders reflect both compassion and practicality**, **and remain consistent with the true object of the law of maintenance**.

59. **Therefore**, the mere fact that the wife had been working before marriage, or that she possesses qualifications enabling her to work, cannot by itself justify reducing maintenance or denying her rightful support. The learned Family Courts must take a holistic and compassionate view, recognizing the social and economic realities faced by women who have remained out of gainful employment for several years on account of marital obligations and responsibilities. The quantum of maintenance must, therefore, reflect these realities and be determined in a manner that upholds the underlying object of the law i.e. to secure the financial stability and dignity of those who may otherwise be left without support.

(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

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

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 & Ors. v. Anil Kachwaha:*** *(2014) 16 SCC 715*, 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:

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

"30. It must also be noted that had the husband in this case been in custody of the minor children, this Court may have framed the maintenance order differently, in a manner that would have addressed the unique challenges faced by him as the custodial parent. The approach of the Court is, therefore, not guided by gender, but by responsibility, need, and fairness.

31. In the present case, a significant aspect that merits attention is that the respondent, who is admittedly employed as a stenographer in the District Court – a role that demands punctuality, mental acuity, and undivided focus has been consistently balancing her professional responsibilities with the demands of her personal life. While it was contended by her counsel that she faces multifaceted challenges as a "single parent," this Court is of the view that such terminology requires a nuanced understanding. A custodial parent, though performing parental responsibilities independently, does not live a solitary existence; rather, he or she forms a familial unit with the children in their care. The presence of children, and the responsibilities that accompany their upbringing, confer upon such an individual the character of a family, not of a person leading a singular or isolated life.

32. To deal with the argument that the respondent herein is working and is thus financially and otherwise capable and empowered to not only take care of the children and her career but also, therefore, not seek maintenance, this Court is of the view that even in cases where a father has custody of young and minor children, the challenges he faces are, in essence, not dissimilar to those encountered by a mother in a comparable situation. While societal perception may traditionally lean towards the belief that a father's role is rendered more arduous due to professional commitments and prevailing gender expectations, the same logic must equally apply to working mothers, who often navigate identical – if not heightened – burdens.

33. In the present case, what stands out is that the respondent – a woman employed in a demanding position that requires sustained concentration, discipline, and extended working hours – is not seeking maintenance for herself but solely for the children born out of the wedlock. This, despite the fact that the petitioner earns nearly twice her income. The respondent continues to shoulder the primary responsibility for the children's upbringing while simultaneously discharging her professional duties with diligence.

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

> 34. This case is, in many ways, an acknowledgment – if not a tribute – to all working custodial parents, irrespective of gender, who strive each day to maintain equilibrium between their obligations as caregivers and professionals. It is both appropriate and necessary to recognize their efforts with respect and without reductive labels, and try to measure their efforts as caregivers in monetary terms. To reiterate it is irrespective of the gender of the custodial parent."

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.

(vii) Living with Parents After Separation – No Ground to Deny or Reduce Maintenance

64. Another issue that calls for attention is the approach sometimes adopted by the learned Family Courts in reducing the quantum of maintenance on the ground that the wife, after separation, is residing in her parental home and has her parents or siblings to support her. In

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

certain cases, even the financial position of her parents is referred to, as though it lessens the husband's legal and moral obligation to maintain her. This reasoning is unsustainable in law as well as unjust in principle. In ***Manish Jain v. Akanksha Jain:*** *(2017) 15 SCC 80*1, which has also been referred to in ***Rajnesh v. Neha*** *(supra)*, the Hon'ble Supreme Court categorically held that the financial position of the parents of the applicant-wife is immaterial while determining the quantum of maintenance. The responsibility to maintain a wife flows from the marital relationship itself and cannot be shifted upon her parents, however well-off they may be.

65. It must be remembered that **when a woman, after marriage, is compelled to return to her parental home, it is seldom out of choice.** Living in one's parental home after marriage carries with it **emotional, social, and psychological challenges** that are often overlooked. **In the Indian social setting, such a return is frequently accompanied by a sense of stigma, dependence, and loss of dignity.** Parents may provide shelter and emotional support, but it is neither fair nor lawful to presume that they are bound to shoulder the financial burden of maintaining their married daughter and her child. In reality, the very fact that a woman is living with her parents after separation reflects her lack of independent financial resources and her dependence on others for sustenance.

66. The object of law of maintenance is precisely to prevent such dependence. The grant of maintenance ensures that a woman is not forced to rely on her parents or relatives for basic needs, but can live

Signature Not Verified
Digitally Signed
By:ZEENAT PRAVEEN
Signing Date:29.10.2025
19:59:56

with dignity and autonomy. Only when adequate maintenance is granted can she hope to secure independent accommodation, meet her daily expenses, and provide for her child. Denying or reducing maintenance on the assumption that her parents can support her effectively undermines the very purpose of law of maintenance, which seeks to protect a deserted or destitute spouse from financial helplessness. The duty to maintain a wife rests primarily on the husband, in case she is not earning for herself, and cannot be diluted on the ground that she is presently living with her parents or that her parents have means to assist her.

(viii) To Conclude

67. **No two cases of maintenance are ever identical, for these are not mere petitions drafted on paper — they are, in most instances, reflections of real human lives and circumstances. Each petition narrates a personal story, often marked by struggle, disappointment, sacrifice, and survival.** Behind every claim for maintenance lies a lived experience, a family's history, and a set of facts deeply rooted in individual realities. Therefore, one case cannot be measured by the yardstick of another, for the dynamics of every marriage and the circumstances of every separation are unique.

68. The learned Family Courts must, therefore, approach each case with sensitivity and an open mind, appreciating that every set of facts presents its own challenges. The financial conditions, emotional equations, responsibilities, and social contexts of spouses can differ

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vastly. What may be fair and reasonable in one case may be wholly inappropriate in another. Maintenance cases, by their very nature, require a careful balancing of compassion and reason, law and life, fairness and practicality.

Understanding Maintenance Proceedings as Human Stories, Not Mere Legal Disputes

69. **In every such proceeding, there are two sides to a human story – that of the wife and that of the husband.** Each brings forth a version shaped by their experiences, grievances, and perceptions. It is the duty of the learned Family Courts to assess these narratives not mechanically but pragmatically, and to arrive at a conclusion that is grounded in both evidence and social reality.

Recognising the Practical Challenges Faced by Family Courts and the Need for Balanced Adjudication

70. **This Court is also conscious of the practical difficulties** faced by the learned Family Courts in the discharge of their duties. The volume of cases before the Family Courts is extremely high, and judges are often required to hear a large number of matters each day, many of which involve complex and emotionally charged disputes. Added to this are the delays frequently caused by the parties themselves, who either fail to file their affidavits of income, assets, and expenditure in time or file incomplete or evasive ones. In some cases, such non-compliance is deliberate, intended to mislead the Court or to stall the proceedings. These challenges, coupled with

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limited time and heavy dockets, undeniably make the task of the Family Court demanding and strenuous.

71. Nevertheless, even amidst these constraints, the Court must endeavour to strike **a balance between expedition and fairness.** While it may not be possible to undertake a detailed examination of every financial detail at the interim stage, the orders passed should not suffer from lack of reasoning or absence of clarity as to how the quantum of maintenance has been arrived at. The endeavour must be to ensure that even within practical limitations, the orders reflect a judicious application of mind and are based on the material available on record. Such care and precision, though requiring extra effort, not only strengthen the quality of justice delivered but also reduce avoidable litigation that often arises from unclear or inadequately reasoned orders.

72. It must always be kept in mind that this exercise is not a mere financial calculation but a judicial responsibility that affects the dignity, sustenance, and stability of lives. Therefore, orders on maintenance must reflect not only correctness in law but also an understanding of the human conditions that lie beneath the pleadings presented before the Courts.

73. In conclusion, this Court hopes that the aforesaid observations and guidelines are kept in consideration by the learned Family Courts and Mahila Courts while dealing with petitions filed by a spouse/children seeking maintenance. It is also of utmost importance

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that the judgment of the Hon'ble Supreme Court in ***Rajnesh v. Neha*** *(supra)*, which provides a comprehensive and guiding framework, is always followed to ensure that orders granting maintenance, interim or final, are passed with fairness, uniformity, and clarity.

74. The present petition alongwith pending applications, if any, is accordingly, disposed of in the above terms.

75. Let a copy of this judgment be circulated to all the learned Principal District and Sessions Judges of the District Courts in Delhi, with a direction to circulate the same to all Judicial Officers, particularly those presiding over the Family Courts, so that the observations made herein are duly noted and complied with in letter and spirit.

76. A copy of this judgment shall also be forwarded to the Director (Academics), Delhi Judicial Academy, for inclusion in the relevant training modules and academic discussions.

77. A copy of this judgment be also forwarded to the concerned Family Court for passing of order afresh, as directed in paragraph

78. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

OCTOBER 29, 2025/ns

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