



2025:DHC:3473-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 29.04.2025***

+ MAT.APP.(F.C.) 125/2025

VANDANA MAHAJAN

.....Appellant

Through: Mr. Shubham Kumar, Mr.  
Mohit Bakhshi and Mr.  
Anubhav Jain, Advocates.

versus

PUNEET MAHAJAN

.....Respondent

Through: *Nemo.***CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE RENU BHATNAGAR****RENU BHATNAGAR, J. (ORAL)**

1. The present appeal is filed under Section 19(1) of the Family Court Act, 1984, against the Order dated 29.01.2025 (hereinafter referred as 'Impugned Order') passed by the learned Principal Judge, Family Court, Rohini, Delhi, in HMA No.559715/2016 titled *Vandana Mahajan v. Puneet Mahajan*, whereby the learned Principal Judge, Family Court has dismissed the application for maintenance, moved by the appellant/wife under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred as 'HMA').

2. It is stated that the learned Family Court has incorrectly held in the Impugned Order that the appellant/wife's application under Section 24 of the HMA has sought for recovery of money from the



respondent/husband, whereas she has only sought *interim* maintenance for herself and her son along with the litigation expenses incurred by her. It is averred that she has merely stated in application she has incurred expenses of over Rs.13,00,000/- on necessities for herself and the children, from 2016 till the date of filing of the application under Section 24 of HMA, which the respondent/husband was obligated to shoulder.

3. It is stated that the appellant/wife has single-handedly endured to provide for herself and her children and is working for a school by the name of Jain International since 2014, from where she is drawing a salary of Rs.30,000/- per month. It is also contended that she is suffering from Acute Asthma, Chronic Hypertension and the onset of Osteoporosis and can work only till the age of 58 years.

4. It is highlighted that the appellant/wife owns jointly with the respondent/husband, only one property, namely, a flat bearing No. 404, Sadodaya Sanatan Apartment, Kadbi Chowk, Nagpur, having the value of Rs.1,00,00,000/- and does not own any other immovable property in her name. It is contended that she does not have any sizable bank balance or financial backup and has even taken a loan amount of Rs.90,00,000/-, all of which has not been considered by the learned Family Court.

5. It is submitted that respondent/husband is an industrialist who has numerous industrial plots in his name, enjoys *mesne* profits to the tune of multiple lakhs per annum, has the luxury of residing in two residential immovable properties in posh areas of Nagpur, owns three luxury cars and enjoys memberships of two premium clubs. It is stated



that the respondent/husband is also enjoying the possession of the jointly owned Nagpur property of the appellant/wife and respondent/husband.

6. It is further the case of the appellant/wife that the respondent/husband has not placed before the learned Family Court, the details and documents of all his financial and other holdings, despite which, no adverse inference has been taken by the learned Family Court.

7. The appellant/wife submits that the learned Family Court did not take into account the fact that the respondent/husband started a business venture by the name of “M/s WE SYNERGIZE” with his unlawfully-wedded second wife and contributed lakhs of rupees to the same. It is also contended that the learned Family Court did not take into consideration the fact that the respondent/husband had settled with his unlawfully-wedded second wife, and had paid an amount of Rs.19,50,000/- from his Sole Proprietary Account of M/s Paramhari Engineers, in addition to expensive luxury items such as diamond jewellery and watches, to her as part of a settlement. It is pointed out that the respondent/husband is also be paying a loan amount of Rs.34,64,674/- with an EMI of Rs.75,319/- per month, which was taken by the respondent/husband for the purchase of earth moving equipment for the respondent/husband and his unlawfully-wedded second wife’s business, “M/s WE SYNERGIZE”.

8. It is contended by the appellant/wife that the learned Family Court did not also consider that the respondent/husband sold an immovable property at MIDC, Butibori Industrial Area having a



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market value of approximately Rs.70,00,000/- to Rs.1,00,00,000/-, and that he also did not submit the details of his PPF account which he closed in 2017-18, nor give the statements of his three credit cards.

9. We have considered the submissions made by the learned counsel for the appellant/wife and perused the record.

10. The marriage of the appellant/wife and the respondent/husband was solemnized according to Hindu Rites and Ceremonies on 31.01.1996 at Nagpur, Maharashtra, and from their wedlock, one female child and one male child were born, both of whom have attained majority now. Due to differences between the parties, the parties are residing separately from 04.04.2016.

11. For assessing the income of both the parties, the learned Family Court has taken into consideration the statements of the appellant/wife as well as of the respondent/husband recorded under Section 165 of the Indian Evidence Act, 1872 (hereinafter referred to as 'IEA') and Order X of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC').

12. Qua her income, the appellant/wife has stated in her statement recorded on 07.06.2024, that she is a postgraduate in History and completed her M.Ed in 2012. She has been working as a teacher since 2009-2010 and, at the time of filing the petition for divorce in 2016, was employed at Manav Rachna International School, earning Rs.38,000/- per month. She joined Shiv Nadar School in 2019-2020 with a salary of Rs.66,000/-, returned to Manav Rachna in 2022 as Headmistress earning Rs.83,000/-, then became Vice Principal at G.D. Goenka Signature School in 2022-23 earning Rs.1,50,000/-, and since



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2024 is the Principal of Mount Olympus School with a salary of Rs.1,75,000/-. She owns a car, seven FDRs worth Rs.20,00,000/-, investments in Medi-claim and LIC policies, and holds a joint immovable property in Nagpur with the respondent/husband.

13. So far as the respondent/husband is concerned, in his statement under Section 165 of IEA and Order X of the CPC recorded on 29.04.2024, he stated that he has done B.Ed and MBA and his average income is Rs.1,50,000/- per month apart from the rental income of Rs.78,000/- per month from one of his three industrial plots. He has also stated to be residing in the house owned by his mother and to be holding a joint immovable property in Nagpur with the appellant/wife. Additionally, he has stated to have one Medi-claim policy covering the appellant/wife and three LIC policies in which the appellant/wife is a nominee.

14. As revealed from the statements of the appellant/wife and the respondent/husband recorded by the learned Family Court, both parties are earning well and are equally qualified.

15. The *interim* maintenance to be granted under Section 24 of HMA is not intended to equalize the income of both the spouses. Its purpose is to support a spouse who lacks sufficient income to maintain herself/himself or is unable to defend a litigation and to maintain the lifestyle that such spouse was accustomed to before the friction started between them. If both the spouses are well qualified and earning well, which amount is sufficient to maintain them and to contest litigation and to maintain their lifestyle, there is no ground to grant maintenance only because there is a difference in the income of both spouses. The



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purpose of Section 24 of HMA is to ensure that no spouse suffers due to paucity of funds and not to equalize their earnings.

16. In *Rajnish v. Neha*, 2020 SCC OnLine SC 903, the Supreme Court held that the capability to earn and actual earnings are two different things and if a spouse is found to be prevented from earning, despite having sufficient qualification, she may still be entitled to maintenance, given the circumstances. However, if both the parties are earning a sufficient income which is capable of providing a comfortable lifestyle, there is no ground to grant maintenance based upon the fact that there is a difference in salary/income of both the parties.

17. In *Vijay Kumar v. Harsh Lata Aggarwal*, 2008:DHC:4986, this Court held that the learned Family Court has no jurisdiction to grant any *interim* maintenance to the wife if the income of both husband and wife is almost same. Reference can also be made to the judgment *KN v. RG*, 2019 SCC OnLine Del 7704, passed by this Court wherein also this Court rejected the claim of maintenance of the wife based on account of the reason that she was earning a good amount of salary equal to her husband.

18. In the present case also, both the parties are well qualified. The appellant/wife is earning Rs.1,75,000/- per month, whereas the respondent/husband is earning Rs.1,50,000/- plus a rental income of Rs.78,000/- per month. As revealed the income of both spouses is almost the same. Furthermore, as per the own deposition of the appellant/wife, she is owning a car, has FDRs, a Medi-claim and LIC policies and jointly owns an immovable property in Nagpur with the



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respondent/husband.

19. In our considered opinion, the income of the appellant/wife is sufficient to maintain a lifestyle which is commensurate with the lifestyle of the respondent/husband, and as such, the learned Family Court has rightly dismissed the application filed by the appellant/wife under Section 24 of HMA. We do not find any infirmity in the Impugned Order passed by the learned Family Court.

20. The appeal is, accordingly, dismissed. However, it is made clear that observations made in this Order do not tantamount to expression of any opinion on the merits of the divorce case that is pending before the learned Family Court.

**NAVIN CHAWLA, J**

**RENU BHATNAGAR, J**

**APRIL 29, 2025** / *Sc/my/ik*

*Click here to check corrigendum, if any*