



CIVIL

Single Mother's Maintenance Claims Upheld: Child Care Duty Not Voluntary Abandonment of employment

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PUBLISHED 14 May 2025

In a recent judgment delivered on 13th May 2025, the Delhi High Court addressed a revision petition filed by Praveen Kumar against an order passed by the Family Court, North District, Rohini Courts, Delhi, in MT. Case No. 287/2022. The case involves a dispute over the maintenance awarded to Poornima Arya, the respondent-wife, and their minor child. The Family Court had directed Praveen Kumar to pay a monthly interim maintenance of ₹7,500 each to the child and the respondent-wife. The High Court upheld the Family Court's decision.

Table of contents

- [Background of the Case](#)
- [Rival Contentions](#)
- [Legal Provisions and Judgments Relied Upon](#)
- [Analysis of the Court](#)
- [Conclusion](#)

Background of the Case

The marriage between Praveen Kumar and Poornima Arya was solemnized on 12th January 2016, and a child was born out of the wedlock, who is currently in the custody of the respondent-wife. The parties have been living separately since July 2017. Poornima Arya alleged that she was subjected to cruelty and harassment by her husband, who is a practicing advocate. She was previously employed as a guest teacher with the Delhi Government but became unemployed upon the termination of her contractual employment on 8th December 2022. In response, she filed a petition under Section 125 of the Code of Criminal Procedure, 1973 (Cr.P.C.), seeking maintenance for herself and their minor child. The Family Court, in its order dated 21st October 2023, directed Praveen Kumar to pay a monthly interim maintenance of ₹7,500 each to the child and the respondent-wife. Dissatisfied with this order, Praveen Kumar filed a revision petition in the High Court.

Rival Contentions

Praveen Kumar argued that the petition under Section 125 Cr.P.C. was filed by Poornima Arya solely to harass and humiliate him in retaliation to an earlier order passed in a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act. He claimed that he is a practicing advocate at District Court Jind, Haryana, earning only ₹10,000–₹15,000 per month and supporting his 72-year-old mother. He further contended that Poornima Arya is highly educated and was working as a teacher, earning ₹40,000–₹45,000 per month, including tuition work. He argued that the maintenance awarded is excessive and based on an incorrect estimation of his income.

On the other hand, Poornima Arya argued that Praveen Kumar is a well-established and financially stable practicing advocate before the High Court of Punjab & Haryana since 2010, and apart from a flourishing legal practice, he also earns income from other sources such as rental properties. She emphasized that he has no dependents other than the respondent and their minor son. She submitted that the Family Court, after a comprehensive evaluation of the documents placed on record and the petitioner's deliberate concealment of his true income, rightly assessed his notional income at ₹30,000/- per month and awarded a modest interim maintenance of ₹15,000/- per month for both the respondent and the child. She argued that this amount is reasonable considering the high cost of living in a metropolitan city like Delhi.

Legal Provisions and Judgments Relied Upon

The High Court relied on several legal provisions and judicial precedents to adjudicate the case. Section 125 Cr.P.C. deals with the maintenance of wives, children, and parents. It provides that a person with sufficient means who neglects or refuses to maintain his wife, minor children, or parents can be ordered by a Magistrate to make a monthly allowance for their maintenance. The court also referred to the Supreme Court judgments in *Rajnish v. Neha & Anr.* (2021) 2 SCC 324 and *Shailja v. Khobbana* (2018) 12 SCC 199, which emphasize that mere capability to earn is not the same as actually earning, and being capable of earning alone is not a valid reason to reduce maintenance.

Analysis of the Court

The High Court noted that Poornima Arya was employed as a TGT until 2022, earning approximately ₹30,000/- per month. However, she had to resign due to the demands of single-handedly raising the minor child and the burden of long commuting hours. The court found this explanation reasonable and justified. The court also highlighted that the responsibility of caregiving to a minor child falls disproportionately upon the parent with custody, often limiting their ability to pursue full-time employment, especially in cases where there is no family support to take care of the child while the mother is at work. In such circumstances, the cessation of employment by the respondent cannot be viewed as voluntary abandonment of work, but as a consequence necessitated by the paramount duty of child care.

The High Court further observed that the Family Court had rightly considered the needs of the child and the standard of living to which the parties were accustomed while awarding interim maintenance. The court found no perversity or legal infirmity in the Family Court's assessment of the petitioner's notional income at ₹30,000/- per month.

Conclusion

The Delhi High Court upheld the Family Court's decision, emphasizing the importance of considering the actual income and needs of the parties when determining maintenance. The court remanded the matter back to the Family Court to reconsider the application for interim maintenance afresh, specifically taking into account the income affidavits and bank statements filed by both parties. The Family Court was directed to pass a reasoned order in accordance with the law within one month from the date of receipt of this order. As an interim arrangement, Praveen Kumar was directed to continue paying ₹7,500/- per month to Poornima Arya and ₹4,500/- per month to the minor child until the Family Court's final determination. The revision petition was disposed of accordingly.

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