



2025:DHC:1742



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

% **Date of order: 19th March, 2025**

+ **CRL.REV.P. 273/2023 & CrI.M.A.6767/2023**

MEGHA KHETRAPALRevisionist

Through: **Mr. Rohit Sehgal, Proxy Counsel**

versus

RAJAT KAPOORRespondent

Through: **Mr. Aditya Singla, Ms. Supriya Juneja
and Mr. Ritwik Saha, Advocates**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC") [now under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS")] read with Sections 19 (4) of the Family Court Act, 1984 has been filed on behalf of the petitioner seeking setting aside of the impugned order dated 5th November, 2022 passed by the learned Principal Judge, Family Courts South District, Saket Courts, New Delhi, wherein the learned Principal Judge has declined the interim maintenance to the petitioner under Section 125 of the CrPC in MT cases/198/2021.

2. The brief facts that led to the filing of the instant petition are that the



petitioner-wife married the respondent-husband on 11th December, 2019 in New Delhi and immediately left for Singapore on 24th December, 2019. It is alleged by the petitioner that owing to the cruelties at the hands of her husband and his family members, the petitioner came back to India on 20th February, 2021. It is also alleged that the respondent got the petitioner's spousal visa revoked and the petitioner was stranded all alone in Singapore by her husband. Further, he got into possession of all the petitioner's valuables due to which, the petitioner was forced to sell all her jewellery to reach India.

3. Thereafter, due to the financial hardships, the petitioner started residing with her maternal uncle. Pursuant to the same, in June, 2021, the petitioner filed a petition under Section 125 of the CrPC against her husband praying for maintenance before the learned Principal Judge. Along with the said petition, an application praying for interim maintenance was also moved by the petitioner herein. The said application was dismissed by the learned Principal Judge vide impugned order. Being aggrieved by the same, the petitioner has filed the instant revision petition seeking setting aside of the impugned order.

4. Learned counsel appearing on behalf of the petitioner submitted that the learned Principal Judge erred in passing the impugned order as the same is based on surmises and conjectures and is full of arbitrariness as well as against the settled principles of law.

5. It is submitted that the learned Principal Judge has failed to appreciate the fact that the parties had married at a later stage of their life where the



petitioner was about 36 years old, and the respondent was 40 years of age. It is also submitted that the petitioner graduated in her master's degree in the year 2006, worked from the year 2005 to 2007 in Dubai and thereafter, she was never financially and gainfully employed. Moreover, she was not even employed at the time of her marriage and the said fact was well known to the respondent and his family. The said facts have been ignored by the learned Principal Judge and thus, the impugned order is liable to be set aside.

6. It is submitted that the learned Principal Judge ignored the substantial gap between the petitioner's graduation, her last job and the date of marriage, which showcases that she chose to not be employed gainfully and willingly remained idle.

7. It is submitted that the learned Principal Judge failed to apply the settled position of law regarding grant of maintenance. The petitioner is unemployed and has no independent source of income. She has been financially dependent on her family since her return from Singapore, and despite her continuous efforts, she has been unable to secure employment.

8. It is submitted that the learned Principal Judge erred in rejecting her application solely on the assumption that she is capable of earning without considering the ground reality of her financial and social condition.

9. It is further submitted that the learned Principal Judge failed to consider that the respondent, despite being financially well-off, abandoned the petitioner and left her without any financial support. The respondent was earning a substantial salary in Singapore, i.e., Rs. 27,22,723/- per month, and continues to maintain a luxurious lifestyle, whereas the petitioner has been



left to depend on her maternal uncle, who is a retired person with limited financial resources.

10. It is submitted that the respondent's claim that he has been terminated from his job is a mere excuse to evade from his financial obligations, as he has failed to provide substantial evidence of his financial incapacity. The respondent has not disclosed his complete bank statements, assets, and other sources of income, which are crucial factors in determining his financial capacity to pay maintenance.

11. It is submitted that even if the respondent has lost his job, it does not absolve him of his responsibility to maintain his wife, as maintenance under Section 125 CrPC is a moral and legal obligation. Reliance in this regard is placed on the judgment of the Hon'ble Supreme Court in ***Rajesh v. Neha & Anr.*, (2021) 2 SCC 324**, wherein, it was held that the husband's obligation to maintain his wife does not end merely because he has lost his job; and he must disclose all sources of income to determine his ability to pay maintenance.

12. It is further submitted that learned Principal Judge erred in relying on the *LinkedIn* profile of the petitioner to assume that she was earning. The existence of a *LinkedIn* profile does not prove the actual employment or financial independence, and the learned Principal Judge's presumption in this regard is erroneous and against the settled principles of law.

13. It is submitted that the learned Principal Judge wrongly ignored the respondent's financial status, as he has substantial investments and assets in India and abroad, and despite claiming to be unemployed, he has been



traveling frequently and maintaining an affluent lifestyle.

14. It is further submitted that the petitioner is entitled to interim maintenance under Section 125 CrPC, even if she is capable of earning, unless the respondent proves that she has an independent source of income. In this regard, reliance is placed on *Shailja & Anr. v. Khobbanna*, (2018) 12 SCC 199, wherein, the Hon'ble Supreme Court held that 'capable of earning' and 'actual earning' are entirely two different things. Merely because the wife is 'capable of earning' is not a sufficient reason to deny her the maintenance.

15. It is submitted that the learned Principal Judge erred in interpreting the purpose of interim maintenance which is to provide immediate relief to a spouse who is financially dependent. The petitioner has been left without any financial assistance, and therefore, she should be granted interim maintenance from the date of the application.

16. Therefore, in view of the foregoing submissions, it is prayed that the instant petition may be allowed the reliefs to be granted as prayed for.

17. *Per Contra*, the learned counsel appearing on behalf of the respondent husband vehemently opposed the instant petition submitting to the effect that the same is a gross abuse of process of law and thus, liable to be dismissed.

18. It is submitted that the petitioner is highly educated and capable of earning, and therefore, she cannot claim maintenance under Section 125 CrPC merely on the ground that she is unemployed.

19. It is submitted that the learned Principal Judge rightly held that an able-bodied spouse must make reasonable efforts to sustain herself rather



than relying entirely on the spouse for financial support. It is submitted that the petitioner had her own business of artificial jewellery before marriage and was financially independent, as evident from her *LinkedIn* profile and past professional engagements. It is further submitted that there is no evidence on record to suggest that the petitioner made genuine efforts to seek employment after her return to India.

20. It is submitted that the respondent lost his job and is currently unemployed, as reflected in the termination letter dated 20th September, 2022, which was produced before the learned Principal Judge. Since the respondent has no source of income at present, he cannot be directed to pay maintenance.

21. It is submitted that the quantum of maintenance sought by the petitioner is excessive and unjustified, as a demand of ₹3,25,000/- per month is disproportionate to the lifestyle the petitioner previously had in India. It is submitted that the petitioner has exaggerated the respondent's financial status while suppressing her potential earning capacity.

22. It is submitted that the impugned order specifically records about the conduct of the petitioner herein that the income affidavit submitted by her did not disclose her educational/professional qualification. It has been further recorded that the details of her qualification and her previous employment was brought on record by the respondent herein where it was disclosed that the petitioner was gainfully employed with KPMG Dubai as an audit associate during her stay at Dubai. The *LinkedIn* profile of the petitioner, brought on record by the respondent, has not been denied by her



during the arguments, which shows that from February, 2015 to October, 2019, the petitioner was involved in buying and selling of semi-precious and artificial jewellery. The learned Principal Judge, thus, correctly arrived at the conclusion that prior to the marriage, the petitioner was earning sufficiently. Further, the Whatsapp chats between the petitioner and her mother dated 31st December, 2020, clearly shows the mother of the petitioner informing her that if she gets a job, she may not get alimony.

23. It is submitted that the petitioner's claim that she has no source of income is misleading, as she has been residing in Delhi with her maternal uncle, who has been financially supporting her. The respondent submits that she has not demonstrated any financial hardship that would warrant interim maintenance.

24. It is submitted that the present petition is an attempt to harass the respondent, as he has already been burdened with multiple legal proceedings initiated by the petitioner. It is submitted that Section 125 CrPC is not meant to be used as a tool for financial oppression, but only for genuine financial assistance in cases of necessity. In support of his arguments, reliance is placed on *Manish Jain v. Akanksha Jain*, (2017) 15 SCC 801.

25. In view of the above contentions, it is prayed that the present revision petition may be dismissed being devoid of any merit.

26. Heard learned counsel appearing on behalf of the parties and perused the material placed on record.

27. The petitioner has challenged order dated 5th November, 2022 by virtue of which she was denied the relief of interim maintenance under



Section 125 of the CrPC. In view of the same, this Court shall now discuss the impugned order, relevant portion of which is as under:-

“16. Ld. Counsel for respondent has vehemently opposed this application for interim maintenance. My attention is drawn to the transcript of whatsapp chat/conversation between petitioner and her mother (Annexure R-1) in which petitioner states "I'm thinking I'll poison his food". She further states I want to give him poison". She further states "I am loosing patience now" and that "I want to poison him". My attention is drawn by Ld. Counsel for respondent to whatsapp conversation (Annexure R-5) between petitioner and her mother, where the mother of petitioner is telling that if petitioner gets a job, it will create problems in getting alimony. It is submitted by Ld. Counsel for respondent that petitioner is highly qualified lady. My attention is drawn to the income affidavit of respondent in which it is mentioned that petitioner is Master of International Business, University of Wollongong, Australia. It is submitted that petitioner is well educated and capable of earning livelihood and has deliberately has chosen to remain unemployed. It is submitted that petitioner was gainfully employed in KPMG Dubai as an Audit Associate and that she was drawing a handsome remuneration. Thereafter, she joined her father's business as Human Resources Manager. Then she also started her business of importing semi precious jewellery. Ld. Counsel for respondent has drawn my attention to her linkedIn profile, which she was employed/self employed. Ld. Counsel for respondent has further submitted that now after termination of his service, respondent is unemployed. Ld. Counsel for respondent has referred to Rupali Gupta Vs. Rajat Gupta 2016 SCC Online Del 5009. In this judgement, Hon'ble High Court of Delhi relied upon Smt. Mamta Jaiswal V. Rajesh Jaiswal 2000 (3) MPLJ 100 and deprecated award of interim maintenance to a well qualified spouse having the earning capacity but desirous of remaining idle.



17. *Ld. Counsel for petitioner has countered this case law by referring to Shailja & Anr. Vs. Khobbanna (2018) 12 SCC 199 in which Hon'ble Supreme Court of India has held that :*

“... Whether the appellant no. 1 (wife) is capable of earning or whether she is actually earning are two different requirements. Merely because the appellant no.1 (wife) is capable of earning is not, in our opinion, sufficient reason to reduce the maintenance awarded by the family court.”

Hon'ble Supreme Court in Cri. REV. Pet. 849/2018 titled Kanupriya Sharma Vs. State & Anr. decided on 31" May, 2019 held that :

“...Whether appellant (wife) is actually earning or qualified and capable of earning are again two different things. As noticed above, no material has been produced by Respondent No.2 to show that the Appellant (wife) is gainfully employed or receiving any salary and actually earning. The pleas raised by the Respondent No.2 would be required to be established at trial. Till Respondent No.2 established by leading cogent evidence that Appellant (wife) is gainfully employed and receiving salary there is no justification to deny maintenance to the Appellant-wife”

18. *Ld. Counsel for petitioner has further referred to Chaturbhuj Vs. Sita Bai MANU/SC/8141/2007 in which Hon'ble Supreme Court of India held that test for determination of quantum of maintenance is “whether the wife is in a position to maintain herself in the way she was used to in the place of her husband”. Ld. Counsel for petitioner further referred to Jaspreet Singh Vs. Swaneet Kukreja, MANU/DE/0698/2022, in*



which Hon'ble High Court of Delhi held that the amount of interim maintenance must be commensurate to the income of husband. Further Nitin Sharma & Ors. Vs. Sunita Sharma & Ors. MANUDE0279/2021 was referred to, in which Hon'ble High Court of Delhi held that while calculating quantum of maintenance, the income has to be ascertained keeping in mind deduction only towards income tax and compulsory contributions like GPF, PPF etc.

19. *Ld. Counsel for petitioner has also questioned the authenticity of whatsapp chat relied upon by respondent. It is argued that this is a stage of interim maintenance, the purpose of which is to serve immediate and urgent needs of the petitioner and that rest of the issues can be considered on merits.*

20. *I have considered case law cited by Ld. Counsel for respondent. Perusal of Rupali Gupta Vs. Rajat Gupta 2016 sCC Online Del 5009 would show that in this judgement Hon'ble High Court of Delhi heavily relied upon Smt. Mamta Jaiswal V. Rajesh Jaiswal 2000 (3) MPLJ 100 (supra) in which Hon'ble Madhya Pradesh High Court observed that a well qualified wife cannot be allowed to sit idle waiting for dole to be awarded by her husband.*

21. *Ld. Counsel for petitioner has laid emphasis on Chaturbhuj Vs. Sita Bai MANU/SC/8141/2007 a judgement dated 27.11.2007 in which Hon'ble Supreme Court of India observed that wife should be in a position to maintain the standard of living consistent with status of her family. I have carefully perused this judgement. I may point out that in this judgement Hon'ble Supreme Court of India has also considered a factor that it was not a case where wife was capable of earning but she was not making any effort to earn. The present case falls in the same category where petitioner is highly educated and capable of earning. I may point out that in her*



petition and income affidavit, she has not disclosed her educational/professional qualification. She has also not stated as to whether she used to work prior or after marriage. Though in her income affidavit, in column of educational she has simply written "Post Graduate", she has concealed as to which subject she holds a Post Graduate degree. Full details of her qualification and her previous employment was brought on record by respondent in his income affidavit and LinkedIn profile of the petitioner to show that petitioner holds a degree of Master of International of Wollongong Australia. He also disclosed that petitioner was gainfully employed of KPMG Dubai an Audit Associate during her stay in Dubai. The LinkedIn profile of petitioner brought on record by respondent ha also not been denied by petitioner during arguments, which shows from February 2015 to October, 2019 the petitioner managed buying and selling of semi precious and artificial jewellery. Therefore prior to the marriage, the petitioner was earning sufficiently. The marriage between the parties was solemnized on 11.12.2019. The petitioner is respondent since 20.2.2021. The conversation referred to by Ld. Counsel for respondent are dated 31.12.2020, which reflects that the mother of petitioner is informing the petitioner that if she gets a job, she may not get alimony. Though Ld. Counsel for petitioner has labelled this whatsapp chat (Annexure P-15) as fabricated one, presently this court is to take only a prima facie view of the material on record. As I have already pointed out that Hon'ble Supreme Court of India in Chaturbhuji case (supra) awarded maintenance to wife because "it was not a case where the wife despite being capable of earning, was not making an effort to earn."

22. I would like to refer to Damanreet Kaur Versus Indermeet Juneja & Anr. a judgement dated 14.5.2012 of Hon'ble High Court of Delhi in CRL. REV. P. 344/2011. Hon'ble High Court of Delhi dealt with a case where wife was working with an Insurance Company. But after birth of child,



the company asked the petitioner to shift to Bangalore. Petitioner therein did not accept this offer and she was forced to resign from the job. Hon'ble High Court declined the interim monetary relief to wife by holding that she was well educated lady earning about Rs.50,000/- per month and had chosen not to work of her own will though had the capacity to work and find a suitable job for herself. In the present case also the petitioner is highly qualified as she has done Master of International Business, University of Wollongong Australia. She had worked as Associate Accountant in a company in Dubai. As per her petition, she is not earning anything after marriage. But this is not sufficient for such a highly qualified lady for claiming maintenance. Above mentioned conversation placed on record by respondent shows that she is deliberately not trying to get any job so as to squeeze out maintenance on higher side from her husband. Petitioner's unemployed status has to be balanced with her not deliberately taking up any job despite her high education and previous employments/business, which she has tried to conceal. In para 2 of main petition, the petitioner has stated that she cannot sit idle and is trying to search for a job and that since the job prospects in Delhi are much wider, the petitioner needs to stay in Delhi. However, nothing has been brought on record as to what efforts, the petitioner has made for getting a job or starting business. This should be seen in background of the whatsapp chat Annexure R-15. As already stated, the conversation Annexure R-15 is dated 3 1.12.2020 and the main petition is dated 24.6.2021. I find force in the arguments of Ld. Counsel for respondent that the petitioner did not try to get any job deliberately under a design despite having high qualification and a good work experience. I would like to refer to Gurpreet Dhariwal Vs. Amit Jain a recent judgement dated 16.3.2022 in MAT. APP. (F.C.) 311/2019 by Division Bench of Hon'ble High Court of Delhi. Hon'ble Judges noted that wife was a competent and educated lady, who had various options to take up a job. In view of the



fact that the wife was highly qualified and had not disclosed complete facts in her income affidavit, Hon'ble Division Bench declined to grant interim maintenance to her

23. Facts before Hon'ble Supreme Court of India cited by Ld. Counsel for petitioner are distinguishable from the present case, where there is a prima facie material that petitioner is deliberately avoiding to take up any job so as to get maintenance from her husband. In view of her high qualification and working experience, it cannot be said that she is unable to maintain herself. Thus the petitioner does not fulfill the condition as specified in Section 125(1)(a) CrPC of inability to maintain herself.

24. In such circumstances, I am not inclined to grant any interim maintenance to the petitioner. Application is dismissed accordingly. However, nothing stated herein shall tantamount to the expression of my opinion on the final merits of the case.”

28. Upon perusal of the above extracts of the impugned order, it is made out that the learned Principal Judge adjudicated the application seeking interim maintenance. The respondent herein had placed on record WhatsApp conversations, wherein, the petitioner allegedly expressed intentions to poison him. Further, the learned Principal Judge was apprised of another conversation between the petitioner and her mother, where the mother advised that employment would adversely affect petitioner's alimony claims. The respondent contended that the petitioner, holding a Master of International Business degree from the University of Wollongong, Australia, was deliberately remaining unemployed despite being capable of earning a livelihood.

29. Evidence was adduced showing the petitioner's previous employment



as an Audit Associate at KPMG Dubai, subsequent work as a Human Resources Manager in her father's business, and entrepreneurial venture importing semi-precious jewellery. The respondent referred to her *LinkedIn* profile confirming her employment history and the learned Principal Judge noted that while the petitioner simply mentioned "Graduate" and "Post Graduate" in her affidavit without specifying details, she concealed her professional qualifications and previous employment history.

30. The learned Principal Judge relied on various precedents holding that *prima facie* evidence reveals that the petitioner deliberately avoided employment to maximize maintenance claims, referencing the WhatsApp conversation dated 31st December, 2020, i.e., prior to her petition filed on 24th June, 2021. It was further observed that although the petitioner claimed in her petition to be actively seeking employment, she failed to substantiate any job search efforts. The Court below found merit in the respondent's contention that the petitioner, despite high educational qualifications and work experience, was strategically remaining unemployed.

31. Taking into consideration the foregoing, the learned Principal Judge held that the petitioner herein failed to satisfy the criteria under Section 125(1)(a) of the CrPC of inability to maintain herself, and accordingly, dismissed the application for interim maintenance.

32. This Court has gone through the contents of the instant petition as well as the reasoning given by the learned Principal Judge whilst passing the impugned order.

33. The instant petition has been filed under the revisional jurisdiction of



this Court. It is a settled position of law that the revisional jurisdiction of this Court must be exercised in a limited manner such as in the case of a palpable error, non-compliance with the provisions of law or when the decision involves arbitrary exercise of judicial discretion. The purpose of the exercise of the said jurisdiction is to ensure that the ends of justice are secured and there is no abuse of process of the court. Keeping the limited jurisdiction of this Court in mind, this Court shall now decide the instant matter.

34. Insofar the law *qua* the award of maintenance to a wife by the husband under Section 125 of the CrPC is concerned, in the landmark judgment of ***Rajnish v. Neha*, (2021) 2 SCC 324**, the Hon'ble Supreme Court extensively elucidated upon the jurisprudential contours of Section 125 of the CrPC. Substantive parameters for adjudication of maintenance applications, such as the matrimonial status of the litigants, their respective necessities and lifestyle, the financial capacity of the spouses, and any independent income accruing to the wife are to be taken into consideration.

35. However, in the present case, the primary issue which has also been addressed by the learned Principal Judge is whether the petitioner herein is entitled to the grant of interim maintenance in light of the fact that she is able-bodied, well-qualified, and the evidence such as the Whatsapp conversations, relied upon by the Court below along with the *LinkedIn* profile, reeks of *mala fides*?

36. With regard to the above, the Hon'ble Supreme Court, in ***Sunita Kachwaha v. Anil Kachwaha*, (2014) 16 SCC 715**, observed that the capacity to earn and deliberately remaining unemployed are relevant factors



in determining maintenance claims. Relevant paragraph of the same is as under:

“7. Inability to maintain herself is the precondition for grant of maintenance to the wife. The wife must positively aver and prove that she is unable to maintain herself, in addition to the fact that her husband has sufficient means to maintain her and that he has neglected to maintain her. In her evidence, the appellant wife has stated that only due to help of her retired parents and brothers, she is able to maintain herself and her daughters. Where the wife states that she has great hardships in maintaining herself and the daughters, while her husband's economic condition is quite good, the wife would be entitled to maintenance.”

37. Further, the Division Bench of this Court, in ***Gurpreet Dhariwal v. Amit Jain, 2022 SCC OnLine Del 1066***, also noted that where a wife is competent and an educated woman with various employment options available to her, interim maintenance can be declined, particularly if she has not disclosed complete facts in her income affidavit. Relevant portion of the same is as under:

“23. Trite it is to observe that it is no answer to deny the claim of maintenance to the wife who is educated and can support herself as observed by the Hon'ble Supreme Court in the decision reported as (2017) 15 SCC 801 Manish Jain v. Akanksha Jain. However, the facts in hand are distinguishable since it is not shown that she is not having means to financially support herself. Not only is she much more qualified than the respondent but she has even been working even if intermittently as is borne out from her documents and also from submissions of the learned counsel for the appellant. The impugned Order of learned Principal Judge, Family Court,



does not suffer from any infirmity in denying the interim maintenance to the appellant.”

38. It is settled that while adjudicating an application for grant of interim maintenance, the Court concerned must be *prima facie* satisfied whether such case is made out or not.

39. In the instant case, despite the contentions made by the petitioner that she was earlier residing at her maternal home, pursuant to which she started residing with her maternal uncle, who is old and unable to support her, along with the fact that she is unemployed and dispute is existing with respect to her father's properties, this Court cannot ignore the fact that the petitioner is admittedly a well-qualified and able-bodied person. Furthermore, the whole situation where the petitioner was staying with her parents and now with maternal uncle indicates that she wants to convince the court that she is unable to earn.

40. It is trite to observe that it is the duty of the husband to maintain his wife despite the circumstances, however, for grant of interim maintenance, *prima facie* satisfaction is necessary to determine whether the wife is genuinely in need of maintenance and the factors leading to such need of maintenance.

41. Bearing in mind the limited scope of interference of this revisional Court, it is observed that the instant case does not warrant grant of interim maintenance to the petitioner-wife. The fact that the petitioner possesses a master's degree in International Business from the University of



Wollongong, Australia, which has not been denied by the petitioner either before the Court below or before this Court, plays a major role as the same speaks about her capacity to earn and maintain herself.

42. Further, she has had substantial professional experience including employment as an Audit Associate at KPMG Dubai, a position as Human Resources Manager in her father's business, and entrepreneurial experience in the import of semi-precious jewellery, out of which the latter part has been opposed by the petitioner. However, her *LinkedIn* profile, also confirms her professional history and business activities. Further, the petitioner, as noted in the impugned order, concealed the proper description of her educational qualification.

43. Regarding the *prima facie* evidence of deliberate unemployment, the WhatsApp conversation between the petitioner and her mother, legitimacy of which can be determined at the appropriate stage of trial, wherein the mother advises that employment would jeopardize alimony claims, is particularly telling. This communication, preceding the maintenance petition, strongly suggests a deliberate attempt to remain unemployed to seek maintenance claims.

44. Furthermore, it has been rightly observed by the learned Principal Judge that while the petitioner claims that she cannot sit idle and is trying to search for a job, she has not placed any evidence on record regarding her efforts to secure employment or resume her business activities either before the Court below or before this Court. Accordingly, this Court is of the considered view that the mere assertion of job-seeking, without



corroborative evidence, is insufficient to establish genuine efforts at self-sufficiency.

45. Moving further, the respondent has produced a termination letter dated 20th September, 2022, evidencing his current unemployment. While the petitioner contends this is merely an excuse to evade financial obligations, she has not adduced any evidence to contradict this documentary proof.

46. Here, it is imperative to mention that the petitioner's reliance on *Shailja (Supra)*, regarding the distinction between 'capable of earning' and 'actual earning', the facts of the present case are distinguishable. In the present case, there is *prima facie* evidence suggesting deliberate avoidance of employment by the petitioner.

47. Taking into consideration the observations made hereinabove, this Court is of the view that qualified wives, having the earning capacity but desirous of remaining idle, should now set up a claim for interim maintenance. Section 125 of the CrPC carries the legislative intent to maintain equality among the spouses, provide protection to the wives, children and parents, and not promote idleness. In light of the same, this Court is of the considered view that a well-educated wife, with experience in a suitable gainful job, ought not to remain idle solely to gain maintenance from her husband. Therefore, interim maintenance is being discouraged in the present case as this Court can see potential in the petitioner to earn and make good of her education.

48. This Court is aware of the fact that in terms of *prima facie* perusal of



the record, at present, the petitioner-wife is not employed or at least there is nothing on record to indicate she is employed in any gainful work, however, having regard to the qualifications that she possesses and given her past employment record, there is no reason why she ought not to be in a position to also maintain herself in the future.

49. The petitioner herein has a master's degree from Australia, she was earning well in a job in Dubai before her marriage, there are certain conversations between the petitioner and her mother which shows the *ex facie mala fides* on the part of the petitioner etc. The said factors, upon conjoint consideration to award interim maintenance, do not warrant any inclination of this Court. Moreover, this Court encourages the petitioner to actively look for a job to become self-sufficient as she already got wide exposure and is aware of the worldly affairs unlike other women who are not educated and are completely dependent upon their spouses for basic sustenance.

50. This Court is unable to comprehend the fact as to why, despite being able-bodied and well qualified, the petitioner has remained to choose idle since her return to India. Thus, it is held that the learned Principal Judge rightly passed the impugned order holding that the petitioner herein is not entitled to grant of interim maintenance considering the peculiar facts.

51. In view of the aforesaid facts and circumstances, this Court does not find any cogent reasons to interfere with the impugned order under the revisional jurisdiction and therefore, the impugned order dated 5th November, 2022, passed by the learned Principal Judge, Family Courts



2025:DHC:1742



South District, Saket Courts, New Delhi, under Section 125 of the CrPC in MT cases/198/2021 is, hereby, upheld.

52. It is made clear that nothing stated hereinabove shall tantamount to the expression of any opinion on the final merits of the case pending before the Court concerned.

53. Accordingly, the instant petition stands dismissed along with the pending applications, if any.

54. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

MARCH 19, 2025

rt/anr/mk