

**IN THE COURT OF SHRI PUNEET PAHWA,
ADDITIONAL SESSIONS JUDGE/SPECIAL JUDGE (NDPS),
NORTH EAST DISTRICT, KARKARDOOMA COURTS,
DELHI**

**Criminal Appeal No. 3/2026
CNR No. DLNE01-000039-2026**

**1. MOHD. AARIF (HUSBAND)
S/o Late Sh. Mohd. Rafiq
R/o H. No. T-506, 4th Floor,
Kh. No. 205, Gali No.12,
Gautam Puri, Delhi-110053.**

**2. MOHD. AATIF (STEP SON)
S/o. Sh. Mohd. Aarif
R/o. H. No. 6853, Ground Floor,
Ahatakidara, Chemilian Road,
Delhi-110006.**

..... Appellants

Versus

**1. STATE
Govt. of NCT of Delhi**

**2. IMRANA PARVEEN (WIFE)
D/o Sh. Mohd. Khalid
R/o H. No. L-1144, Gali No. 7,
Gautam Vihar, Delhi-110053**

..... Respondents

Date of Institution of Appeal	:	07.01.2026
Date of Completion of Arguments	:	27.04.2026
Date of Judgment	:	16.05.2026

JUDGMENT

1. The present appeal is directed against the impugned judgment dated 08.12.2025 passed by the court of Ms.

Neha Garg, Learned Judicial Magistrate First Class (Mahila Court)-02, North-East District, Karkardooma Courts, Delhi in CIS No. 46361/2015 (CC No. V-339/15), vide which, the petition/application U/s. 12 of the Protection of Women from Domestic Violence Act, 2005 filed on behalf of the petitioner (respondent no. 2 herein) was disposed of, being partly allowed.

2. The present appeal is also directed against the impugned order dated 26.11.2018 passed by the court of Ms. Ruchi Aggarwal Asrani, Learned Judicial Magistrate First Class (Mahila Court), North-East District, Karkardooma Courts, Delhi, vide which, the application for interim maintenance filed on behalf of the petitioner (respondent no. 2 herein) was disposed of.
3. The present appeal is also directed against the impugned order dated 28.10.2025, vide which, the respondent evidence was closed as well as the impugned order dated 20.11.2025, vide which, the application u/s. 25(2) DV Act for recall of order dated 28.10.2025 was dismissed by the Ld. Trial Court. Both the impugned orders were passed by the court of Ms. Neha Garg, Learned Judicial Magistrate First Class (Mahila Court)-02, North-East District, Karkardooma Courts, Delhi in the present case.
4. Briefly stated, the complainant/petitioner Imrana

Parveen (respondent no.2 herein) had filed the petition u/s. 12 of the Protection of Women from the Domestic Violence Act in the Ld. Trial Court against Mohd. Arif (Husband), Wahid (Jeth), Atif (Step Son), Rashida (Nanad), Seema (Jethani) and Reshma (Jethani) stating therein that respondent no.2 got married with appellant no. 1 on 30.05.2006 at Gautam Vihar, Delhi, as per Muslim customs. Her parents allegedly spent around Rs.5,00,000 on the wedding, dowry articles and gifts. It was further alleged that soon after the marriage, when she reached her matrimonial home with all these articles, the respondents therein had expressed displeasure about the dowry and took control of her belongings. After the death of her mother-in-law, the harassment is said to have increased. The respondents therein would allegedly taunt her for bringing less dowry, beat her and demand Rs.2,00,000/- and a motorcycle from her parents, threatening that she should bring the money or leave the house.

5. It was further alleged that despite this behavior, she continued to perform her duties as a wife and became pregnant. When she told her husband about the pregnancy, he allegedly slapped her and said he had married her only to look after his children from the first marriage and not to have more children. All the respondents therein allegedly pressured her to abort the child, saying that otherwise they would not look after the baby and would throw both

mother and child out of the house. Thereafter, the complainant still continued with the pregnancy and delivered a son, Amaan, on 06.05.2007, and later a daughter, Afiya Parveen, on 29.11.2008. All her delivery and related expenses were borne by her father, while the respondents (appellants herein) created nuisance even at the time of the daughter's birth.

6. It was further alleged that when on 05.07.2008, she had disclosed about her second pregnancy to her husband (appellant no. 1 herein), later at the instigation and provocation of the remaining respondents therein, pronounced Talaq on her, but on the next day, her husband came to his senses and issued a Fatwa nullifying the Talaq pronounced by him. It was further alleged that on 28.12.2009, the step son, namely, Atif, nanad, namely, Rashida and others tried to kill her by burning her, but she managed to escape and went to the police station; however, later a meeting of relatives took place, but the behavior of the respondents therein did not change.

7. It was further alleged that on 14.04.2014, when the children were at school and the respondent no. 2 was alone at home, respondent Atif (appellant no. 2 herein) allegedly entered her room, pushed her and tried to rape her. When she complained to her husband (respondent no.1 therein), all respondents allegedly beat her badly and threatened to throw her out for not fulfilling their dowry demands of

Rs.2,00,000 and a motorcycle. Thereafter, she was driven out of the matrimonial house with only the clothes, which she was wearing and since then, she has been living with her parents alongwith her two minor children.

8. It was further alleged that the respondents therein had deserted her and her minor children, did not provide maintenance, did not return her isticidhan and threatened to dispose of her assets and other properties and prayed for seeking protection order, residence right, monetary relief including maintenance and compensation from respondents therein.
9. During pendency of the petition, the Ld. Trial Court, vide impugned order dated 26.11.2018, allowed the interim maintenance application u/s 23 of PWDV Act, 2005 of the respondent no. 2 awarding a sum of Rs.2,000/- each to the respondent no. 2 and her two children i.e. Rs.6000/- per month in total.
10. Vide impugned order dated 28.10.2025, the Ld. Trial Court has closed the evidence (RE) of the respondents (herein appellants) and also dismissed in default, the respondents (herein appellants) application for deletion of R3 being a minor.
11. Vide impugned order dated 20.11.2025, the Ld. Trial Court has also dismissed the application of the respondents (herein appellants) for recall of order dated

28.10.2025. On the same day, final arguments on behalf of the petitioner were heard and request for adjournment on behalf of the respondent no.1 therein was declined and the matter was posted for pronouncement of judgment.

12. Thereafter, vide impugned Judgment dated 08/12/2025, the Ld. Trial Court partly allowed the petition of Petitioner/Complainant U/s 12 of PWDV Act, 2005.
13. Being aggrieved from the aforesaid impugned Judgment dated 08.12.2025 and orders dated 26.11.2018, 25.10.2025 & 20.11.2025, the appellants filed the present appeal U/s. 29 of Protection of Women from Domestic Violence Act.
14. Notice of the appeal was issued to the respondents and on completion of service, respondent no. 2 appeared with her counsel. Appellant no. 1 also appeared with his counsel.
15. On joint request of both the parties, the matter was referred to the Mediation Centre, however, it could not be settled.
16. I have heard the Ld. Counsel for the appellants and Ld. Counsel for the respondent no. 2 and perused the record of the Ld. Trial Court.
17. Ld. Counsel for the appellants has submitted that the Ld. Trial Court has passed the impugned judgment dated 08/12/2025 in a very hurried and inequitable

manner, as the Petitioner Evidence was fixed for 13.02.2019 for the very first time and it was continued till 01.10. 2024 for a period of more than 5½ years, when the petitioner closed her evidence, whereas on the other hand, Respondent Evidence has been closed, vide impugned order dated 28.10.2025 by the Ld. Trial Court, on account of the non-availability of the respondents as well as their Counsel on that particular date.

18. Ld. Counsel for the appellants has also submitted that the Ld. Trial Court, vide impugned order dated 20.11.2025 dismissed the application for recalling of the impugned order dated 28.10.2025 without going into the merit of the said application, which explained absence of the Counsel for the respondents, who was busy on that date in Tis Hazari Courts and the respondent no. 1 (herein appellant no. 1) could not attend the said hearing on 28.10.2025 to seek adjournment, due to sudden illness of his wife. Even, he could also not inform his counsel about the same.

19. Ld. Counsel for the appellants has further submitted that the Ld. Trial Court vide impugned order dated 20.11.2025 also declined to afford an opportunity to respondent's Counsel to advance final arguments and posted the matter for judgment on the same day i.e. 20.11.2025 at 2 PM. The Ld. Trial Court failed to observe that ordinarily litigation is based on adjudication on merits

of the contentions of parties and litigation should not be terminated by default of either party and cause of justice requires that as far as possible adjudication be done on merits as held by Hon'ble Supreme Court in the matter of **Robin Thapa Vs Rohit Dora, (2019) 7 Supreme Court Cases 359.**

20. Ld. Counsel for the appellants has further submitted that the impugned order dated 26.11.2018 for interim maintenance and impugned judgment dated 08.12.2025 did not take care of/consider the physical handicapness / permanent partial disablement of 30% of the appellant no. 1, while computing his wages. The Ld. Trial Court has wrongly awarded arrear of monthly maintenance to the respondent no. 2 and her children from 02/12/2015 based on the minimum wage rate of Rs.18,456/- (assessed monthly income of appellant no. 1 based on the same) applicable in Delhi during month of December, 2025 for unskilled worker, whereas minimum rates for unskilled worker were Rs.9178/ during the month of December, 2015 as the same are revised every six months based on increase/decrease in consumer price index.

21. Ld. Counsel for the appellants has further submitted that the Ld. Trial Court has failed to observe that respondent no. 3 (herein appellant no. 2) is a minor at the time of filing the petition u/s 12 of PWDV Act and he should not be made a party or otherwise be made a party

through his guardian etc., which was not done in the present matter. Ld. Counsel has also submitted that the Ld. Trial Court, vide impugned order dated 28.10.2025 has dismissed in default the application of deletion of respondent no. 3 (herein appellant no. 2) name from the array of parties being minor, in mechanical manner without applying judicial mind and rather, it should have been decided as per the available material on record of the matter such as application and documents filed/furnished by respondents and its verification report filed by Protection Officer and reply of petitioner.

22. Ld. Counsel for the appellants has further submitted that the Ld. Trial Court failed to appreciate the evidence properly, led by respondent no. 2/wife as she admitted in cross examination that the brothers-in-law (Jeth-R2 in DV Act petition) and the two sisters-in-law (Jethani-R-5 & R6 in DV Act petition) with their children have been residing separately in separate floor of the building/house and having their separate kitchens, still, the Ld. Trial Court came to conclusion that the said families are living in shared house hold with the respondent no. 2/wife. The respondent no. 2/wife admitted in her cross-examination that she did not lodge a police complaint with regard to domestic violence during her stay at matrimonial home though the Police Chowki was few steps away from her matrimonial home and neither made any 100 call to police

control room during the said period and she neither filed any medical certificate nor any doctor prescription /treatment slip, still the Ld. Trial Court came to conclusion that the respondent no. 2/wife suffered domestic violence in her matrimonial home.

23. Ld. Counsel for the appellants has further submitted that the Ld. Trial Court erred in granting maintenance without assessing the actual income, liabilities and financial capacity of the appellant no. 1 and also without assessing the income of the respondent no. 2 and her two children. The Ld. Trial Court awarded maintenance amount in excessive, arbitrary and beyond the paying capacity of the appellant no. 1, which will cause severe financial hardship to him. Thus, the impugned judgment /orders have been passed without proper reasoning making it unsustainable in the eyes of law and same are liable to be set aside as it suffers from legal infirmities apparent on the face of the record and prayed that the impugned judgment/orders may be set aside, in the interest of justice. Ld. Counsel for the appellant has relied upon the judgment, **Rajnesh v. Neha & Ors, Crl. Appeal No. 730 of 2020 dated 04.11.2020.**

24. On the other hand, Ld. Counsel for the respondent no.2 has submitted that the Ld. Trial Court has passed the impugned judgment and orders, after considering all the facts and circumstances in a very judicious manner and

there is no illegality or infirmity in the said judgments and orders. She has also submitted that the appeal filed by the appellants is false, frivolous and baseless and barred by limitation and prayed for dismissing the present appeal filed by the appellants. Ld. Counsel for respondent no. 2 argued that the appellant never complied with the order dated 26.11.2018, which has now obtained finality and arrears of maintenance has not been cleared by him and the appeal to set aside the order dated 26.11.2018 is not maintainable.

25. I have given thoughtful consideration to the submissions made by Ld. Counsel for the appellants and Ld. Counsel for the respondent no. 2.
26. The present appeal has been filed against the impugned judgment dated 08.12.2025 passed by the Ld. Trial Court in CT Case No. 46361/2015, vide which, the petition/application U/s. 12 of the Protection of Women from Domestic Violence Act, 2025 filed on behalf of the petitioner (respondent no. 2 herein) was disposed of, being partly allowed. The appellants are also aggrieved with order dated 26.11.2018 passed by the Ld. Trial Court, vide which, the application for interim maintenance filed on behalf of the petitioner (respondent no. 2 herein) was disposed of, as allowed. The appellants are also aggrieved with the impugned order dated 28.10.2025, vide which, the respondent evidence was closed as well as the impugned

order dated 20.11.2025, vide which, the application u/s. 25(2) DV Act for recall of order dated 28.10.2025 was dismissed.

27. Bare perusal of the impugned judgment and orders shows that the maintenance @ Rs.2,000/- each for the respondent no. 2 as well as for her both the minor children i.e. Rs.6000/- per month in total was granted as an ad-interim maintenance that too, on the basis of monthly income of Rs.10,000/- as admitted by the appellant no.1 himself, after considering all the facts and circumstances of the respondent no. 2 herein.
28. So far as order dated 26.11.2018 is concerned, the present appeal qua the said order is not maintainable being hopelessly barred by limitation. A period of more than 7 years has elapsed since passing of the said order and if the appellant was aggrieved with the said order, then, he should have taken steps to challenge the said order in time. Now, the order dated 26.11.2018 has obtained finality and no ground exists to entertain the present appeal, so far as order dated 26.11.2018 is concerned.
29. However, so far as orders dated 25.10.2025 and 20.11.2025 are concerned, this court does find some merit in the present appeal. Although, there is some delay in filing of the present appeal so far as orders dated 25.10.2025 and 20.11.2025 are concerned, yet, it is not a

considerable delay, in view of the fact that the said orders and the impugned judgment were passed in a very short span of time. Moreover, it is also worth noticing that the courts were closed for the period from 27.12.2025 to 02.01.2026. Thus, in the interest of justice and considering the fact that there is not much delay in filing of the present appeal and so as to consider the present appeal on merits, the delay in filing of the present appeal, so far as orders dated 25.10.2025 and 20.11.2025 are concerned, is condoned.

30. Now, coming to the merits of the present appeal. Bare perusal of the Trial Court Record shows that the complaint u/s. 12 of PWDV Act was filed on 02.12.2025. On 26.11.2018, the orders for interim maintenance was passed and the matter was fixed for PE. When the matter was pending for PE, several miscellaneous applications were filed from both the sides, which prolonged the trial. Ultimately, PE was closed on 01.10.2024 and the matter was fixed for RE.
31. It is worth noticing that the complainant/respondent no. 2 had examined only one witness in PE, despite that it took 6 years to conclude the PE. Since, miscellaneous applications were moved from both sides, appellant solely cannot be held responsible for delay in trial.
32. On 03.12.2024, the matter was taken up for RE for

the first time, however, on that day, an adjournment was sought by Ld. Counsel for the appellants and the matter was fixed for 13.02.2025. On 13.02.2025, an application was filed by the appellants for deletion of name of respondent no. 3 therein. Ld. Counsel for petitioner therein sought some time to file the reply and matter was fixed for 01.05.2025.

33. On 01.05.2025, Ld. Presiding Officer was on half day leave and the matter was fixed for 04.08.2025. On 04.08.2025, none had appeared on behalf of the respondents therein, and last and final opportunity was given to the respondents to pursue the application diligently and to lead RE and the matter was fixed for 28.10.2025.

34. On 28.10.2025 again, none was present on behalf of the respondents and accordingly, RE was closed and the matter was kept for final arguments for 20.11.2025. On 20.11.2025, an application u/s. 25(2) of DV Act was filed for recalling of the order dated 28.10.2025, however, the application was dismissed and final arguments were heard on behalf of the petitioner therein. The request for adjournment on behalf of the appellant was declined and the matter was fixed for pronouncement of judgment on 06.12.2025. From 06.12.2025, the matter was kept for 08.12.2025 and on 08.12.2025, the impugned judgment was passed.

35. Ld. Counsel for the appellant has argued that the Ld. Trial Court failed to grant sufficient opportunity to lead evidence in his defence and even no opportunity was granted to even advance final arguments on behalf of the appellants. So far as the impugned judgment 08.12.2025 is concerned, the same has been assailed by Ld. Counsel for the appellants on the ground that vide said judgment, the appellant no. 1 had been directed to pay a sum of Rs.11,000/- i.e. Rs. 3666/- each for respondent no.1 and her two minor children per month towards maintenance to the petitioner from 02.12.2015 till the date they are legally entitled, by assessing the income of the appellant no. 1 to be Rs.18456/- per month on the basis of minimum wages as applicable in the GNCT of Delhi on the date of passing of the judgment. It has been argued by Ld. Counsel for the appellants that assessing the minimum wages as Rs. 18,456/- for the purpose of granting maintenance from the date of filing of the petitioner is not justifiable, as minimum wages declared by the Govt. is not fixed and it is enhanced by the Govt. after regular intervals and the minimum wage as applicable on the date of filing of the petition was much lesser, which was not considered by the Ld. Trial Court. The second argument raised by Ld. Counsel for the appellant is that the appellant no.1 is physically disabled to the extent of 30% and the appellant is also having certificate to that effect and accordingly, his

minimum wage is to be assessed keeping in view the disability of the appellant, which fact was not considered by the Ld. Trial Court.

36. This court finds force in the above two arguments raised by Ld. Counsel for the appellants, as assessing the minimum wage existing on the date of passing the judgment for the purpose of granting maintenance w.e.f. the date of filing of the petition i.e. 02.12.2015 is neither reasonable, nor tenable under the eyes of law. admittedly, minimum wage is notified by the government on time to time basis. Since, parties failed to prove the exact income of respondent no. 1, it was incumbent upon the Ld. Trial Court to grant the maintenance on the basis of minimum wages, however, the same was to be granted only as per the minimum wages notified by the GNCT of Delhi from time to time. Granting maintenance w.e.f. 02.12.2015 on the basis of minimum wages existing on the date when the judgment was passed is neither justifiable, nor tenable under the eyes of law, and therefore the judgment dated 08.12.2025 is liable to be set aside on this ground alone.

37. Moreover, the appellant also deserves an opportunity to lead evidence in his defence so as to prove his disability ,as the same may affect the outcome of the case so far as granting of maintenance to the respondent no. 2 is concerned.

38. It has been held by the Hon'ble Supreme Court in catena of judgments that the endeavour of courts should be to dispose of the cases on merits and not to dismiss the same on hyper-technical grounds. In **Shreenath & Anr. Vs. Rajesh & Ors.**, AIR 1998 SC 1827, it was held:

“In interpreting any procedural law, where more than one interpretation is possible, the one which curtails the procedure without eluding the justice is to be adopted. The procedural law is always subservient to and is in aid to justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed”.

39. It is now well settled that the rules of procedure are intended to be a handmaid to the administration of justice and they must, therefore, be construed liberally and in such manner as to render the enforcement of substantive rights effective; so far as possible, no proceedings in a court of law should be allowed to be defeated on mere technicalities. Meaning thereby, a “hyper-technical view” should be avoided by the court.

40. The appellant deserves an opportunity to prove his defence and also to advance arguments in support of his case. As already observed above, no doubt the case was an old case, but the delay in Trial cannot be solely attributed to the conduct of the appellants herein. No doubt, every case deserves to be decided at early as possible, but not at the cost of justice. Consequently, the orders dated

28.10.2025, 20.11.2025 and judgment dated 08.12.2025 are set aside subject to the cost of Rs.10,000/- to be paid by the appellant to the respondent and the matter is remanded back to the Ld. Trial Court with the direction to give atleast one effective opportunity to the appellant to lead evidence in his defence and also to give atleast one opportunity to advance final arguments on his behalf.

41. The complaint/petition filed by the petitioner /respondent no. 2 stands revived and restored to its original number. Both the parties are directed to appear before the Ld. Trial Court on 25.05.2026, on which date, the Ld. Trial Court shall fix a date for respondent evidence as per convenience of the Court and also of both the parties.
42. Record of Ld. Trial Court be sent back with attested copy of this judgment.
43. Appeal file be consigned to Record Room, after due compliance.

**Announced in the open court
on 16th day of May, 2026**

(PUNEET PAHWA)
**Special Judge (NDPS) Addl. Sessions Judge/
North East District/Karkardooma Courts/Delhi**