DLNE010002002026

IN THE COURT OF SH BALWINDER SINGH
ADDL. SESSIONS JUDGE (FTC), NORTH EAST
KARKARDOOMA COURT: DELHI

Crl. Appeal No. 23/2026
CNR No. DLNE010002002026

Varun Sharma
S/o Late Sh. Mahendra Kumar Sharma
R/o H. No. D-1/3, Shiv Durga Vihar,
Lakkad Pur Suraj Kund,
Faridabad, Hariyana-121009

…..Appellant

Vs.

Ms. Pooja Sharma
W/o Sh. Varun Sharma
D/o Sh. Satish Chandra Vashistha
R/o H. No.C-19, Paramhans Vihar,
laxmi Garden, Loni. Ghaziabad, UP.

…...Respondent

Judgment reserved on : 03.06.2026

Judgment delivered on: 23.07.2026

JUDGMENT

1. Vide this order, I shall dispose off the present appeal filed on behalf of the appellant husband u/s 29 of The Protection of Women from Domestic Violence Act, 2005, (herein after referred to as DV Act) whereby he is assailing an order dated 10.11.2025 passed by Ld. JMFC (Mahila Court-01), North-East, KKD, Court in the petition filed under Section 12 DV Act, bearing CT No. 480/2023 titled as *'Pooja Sharma Vs. Varun Sharma.'* whereby an application filed on behalf of the respondent u/s 23 of DV Act was allowed by the Ld. Trial Court and appellant was directed to pay a sum of Rs. 36,000/- per month as interim maintenance to the respondent and their two minor children.

2. Pursuant to the filing of the appeal notice thereof was also issued to the respondent. Upon the service of the notice, the respondent also duly attended the court alongwith her Ld. Counsel. However, no separte reply to the appeal has been filed.

3. I have also already heard the submissions of both the sides and have also duly perused the trial court record as well as the impugned order.

4. Now coming to the instant appeal, in order to seek the setting aside of the impugned order, the following grounds have been raised by the appellant in his appeal.

(i) The impugned order is too harsh and perverse in view of the facts and law of the case.

(ii) The impugned order is based on facts contrary to the record.

(iii) That Ld. Trial court has failed to properly appreciate that the affidavit of disclosure of assets and liabilities filed by the appellant and incorrectly awarded the interim maintenance of Rs. 36,000/- to the respondent amounting to more than 50% of the appellant's monthly income while completely ignoring that the appellant was having his own expenses amounting to the Rs. 28,000/- per month towards his rent/maid/servant/transportation/food and Rs. 47,000/- towards payment of EMI of loan and insurance premium.

(iv) The impugned order is bad in law since the Ld. Trial Court has failed to appreciate the settle principle of law that financial capacity of the husband, his actual income, reasonable expenses for his maintenance, dependent family members and his other liabilities are also required to be taken into consideration. Reliance is also placed on ***Jasbir Kaur Sehgal Vs. District Judge Dehradun and Ors. (1997) 7 SCC 7 and Vinny Paramvir Parmar Vs. Paramvir Parmar (2011) 13 SCC 112.***

(v) Likewise, the Ld. Trial Court also failed to consider that the respondent had suppressed her true income and earning capacity and she was gainfully engaged in private tution work and also failed to substantiate her alleged monthly expenses with any documentary proof.

(vi) The Ld. Trial Court incorrectly awarded the grant of maintenance from the date of the application without assigning proper reasons.

(vii) The Ld. Trial Court failed to appreciate that the respondent had forcibly removed the minor children from the custody of the appellant.

5. During the course of final arguments, while arguing on behalf of the appellant similar submissions were again made by the Ld. Counsel for the appellant. It is argued that though, the appellant has duly disclosed in his income affidavit that he is receiving monthly income of Rs. 73,000/-, however, the appellant is also burdened with substantial financial liabilities and apart from the responsibility of his mother and one differently able brother and his wife, he also has his own expenses amounting to Rs. 28,000/- on account of his monthly rent, maid salary, transportation and food, etc., charges. Further, the appellant had also availed three personal loans to the tune of Rs. 2 Lacs, 13 Lacs and 5 Lacs respectively in the years 2022 towards which he is liable to make the payment of EMIs totaling Rs. 47,000/- per month. Similarly, he had also taken four LIC policies and one medical policy and in respect the same also he is liable to pay a total premium of Rs. 14,920/- per month. It is argued that the above said liabilities of the appellant have not been taken into consideration by the court while awarding the interim maintenance to the respondent and the same has also been granted completely ignoring that the respondent is a graduate and is also gainfully engaged in private tuition work. Hence, it is argued that since the impugned order is not based on proper appreciation of facts and the application of settled principle of law, it may be set aside.

6. Per-contra, opposing the present appeal, the Ld. Counsel for the respondent has prayed for the dismissal of the same appeal stating that the appeal filed by the appellant is completely devoid of any merits and is only an attempt of the appellant to cause further mental agony and harassment to the respondent and her minor children. It is also argued that the impugned order passed by the Ld. Trial Court is based on proper appreciation of facts and due application of the law and also does not suffer from any infirmity or illegality.

7. It is argued that while awarding the interim maintenance vide the impugned order the Ld. Trial Court has assessed the income of the appellant to be Rs. 70,000/- only on the basis of his own affidavit of income filed before the Ld. Trial Court. Further, the contention of the appellant that his differently abled brother and sister-in-law are dependent upon him was also rightly rejected by the Ld. Trial Court observing that there is no basis for claiming dependency of an adult brother and sister-in-law merely because they are differently abled.

8. It is submitted that likewise, there is also no illegality in the impugned order passed by the Ld. Trial Court while awarding the maintenance of Rs. 36,000/- per month to the respondent and her children as the said calculation was also based on the principal already settled by the superior courts, more particularly, in the judgment of Hon'ble High Court of Delhi titled as ***Annurita Vohra Vs. Sandeep Vohra 2004 (74) DRJ 99.***

9. It is argued that similarly there is also no infirmity in the impugned order for grant of maintenance from the date of application since nothing was being paid by the appellant prior to the date of the filing of the petition towards the maintenance of the respondent and children.

10. After hearing the submissions from both the sides and perusing the Trial Court record as well as the impugned order, this court is also of the firm view that there is no infirmity or illegality in the impugned order passed by the Ld. Trial Court.

11. Admittedly, the relationship of husband and wife is not disputed between the parties. Likewise it is also not in dispute that it is the own affidavit of income filed by the appellant before the Ld. Trial Court which revealed his monthly income to be Rs. 73,000/-. Further, though, a contention was raised before the Ld. Trial Court that the respondent earns Rs. 30,000/- per month by giving tuition, however, the appellant could not produce any supporting documents to that effect before the court. The same is the position even in the present appeal. Further, there is also no infirmity in the observation of the Ld. Trial Court that the adult brother and sister-in-law of the appellant cannot be considered as dependent upon him merely because they are differently abled. Further, there is also no infirmity or illegality in the decision of the Ld. Trial court dividing the cumulative income of the parties into six part i.e. two parts for the appellant, one part for his mother, one part of the respondent and one part each for their two minor children and awarding the maintenance of Rs. 36,000/- per month as the principal each part on such division would be approximately Rs. 12,000/- per month.

12. As far as the contention of the appellant that his financial liabilities i.e. existing loan EMIs and premium of insurance policies have not been taken into consideration by the court is concerned, admittedly, nothing in relation to the said

loans and insurance policies was pleaded before the Ld. Trial Court in his reply to the application of the respondent filed u/sec. 23 DV Act. Further, even during the course of the hearing on the present appeal, the appellant could not disclose the actual purpose for which the loan in questions were availed by him. As per his own submissions, the loan in questions were the personal loan and were availed by him in order to discharge his existing liabilities in relation to miscellaneous expenses. Admittedly, neither the loan availed were for the purpose of creation of any assets for the joint family comprising the respondent and her children nor the same were availed on account of any other justifiable needs or unavoidable expenditure.

13. It is relevant to note here that in a recent case of ***Deepa Joshi Vs. Gaurav Joshi 2026 SCC Online SC 597, The Hon'ble Supreme Court*** observed as follows:

> *11. The object of maintenance proceedings is well settled. In Chaturbhuj v. Sita Bait, this Court held that the provision is intended to prevent destitution and that a wife is not required to establish absolute inability to survive before claiming maintenance. In Shamima Farooqui v. Shahid Khan, it was emphasized that maintenance must not be illusory and should enable the wife to live with dignity. Further, in Rajnesh v. Neha, this Court reiterated that maintenance must be fair, reasonable and commensurate with the status of the parties and the financial capacity of the husband.*
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> *12. Tested on the aforesaid principles, it emerges that the determination of maintenance must be guided by a balanced assessment of the earning capacity of the husband and the reasonable needs of the wife. In the present case, it is not in dispute that the respondent is in salaried employment and has a regular source of income. The Family Court, while determining maintenance, appears to have accorded considerable weight to deductions*

reflected in the salary, and the High Court has, to an extent, corrected the inadequacy by enhancing the amount.

13. However, deductions arising out of financial commitments such as loan repayments, particularly where they contribute towards creation of assets, cannot be placed on the same footing as necessary expenditure so as to substantially reduce the liability of maintenance. The liability to maintain a spouse is a primary obligation and cannot be subordinated to such financial arrangements.

14. In the instant case also the alleged liabilities of the appellant on account of loan EMIs and premium of insurance policies cannot said to be justified claims so as to reduce his liability of providing maintenance to the respondent and her minor children. Further, since it is also already observed that there is no illegality or incorrectness in the computation of the income of the appellant and the division of the same in each share of Rs. 12,000/- for the purpose of grant of maintenance, the impugned order does not call for any interference.

15. The appeal in hand accordingly stands dismissed and disposed off.

16. Copy of order be given dasti to both the sides on request.

17. TCR be sent back to the concerned court.

18. The file pertaining to present appeal be consigned to record room.

Announced in the open court on 23.07.2026.

This judgment consists of 09 pages and each page of the judgment is also digitally signed.

BALWINDER SINGH
Digitally signed by BALWINDER SINGH
Date: 2026.07.23 15:31:08 +0530

(BALWINDER SINGH)
ASJ (FTC)/North-East/KKD Courts/
Delhi/23.07.2026