

**IN THE COURT OF SHRI PREM KUMAR BARTHWAL,
PRINCIPAL DISTRICT & SESSIONS JUDGE,
SOUTH-EAST DISTRICT, SAKET COURTS: NEW DELHI**

CA No. 285/2025
CNR No. DLSE01-008771-2025

Ms. Pinky Burman
W/o Vijay Burman
R/o House No. A-233,
Chhuriya Mohllan, Madanpur Khadar,
Sarita Vihar, New Delhi-110076

....Appellant

Versus

Mr. Vijay Burman
S/o Mr. Lakhan Burman
R/o Vijay Burman % Lakhan Burman
Near Prerna Jewelers, Warks Road, Ranitala
Kulti, Post Office : Kulti,
District: Paschim Bardhaman West Bengal-713343

....Respondent

Date of filing : 20.08.2025
Arguments heard on : 15.10.2025
Date of pronouncement : 18.10.2025

JUDGMENT:

1. By this judgment, I shall dispose of the appeal filed by the appellant/wife under provisions of Section 29 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred as DV Act) assailing the impugned order dated 12.07.2025 passed by the Court of Ld. JMFC (Mahila Court-03), South-East, Saket, New Delhi, in complaint case no. 1894/2022, whereby the application for interim maintenance of the complainant (wife) was disposed of and the

respondent/husband was directed to pay interim maintenance of Rs.10,000/- per month to the complainant/wife.

2. I have heard learned counsels for the appellant and the respondent and perused the file.

3. The complainant/appellant has filed the application U/s 12 of The DV Act against the respondent. Along with the application, the complainant has also filed application U/s 23 of The DV Act for the grant of interim maintenance.

4. In brief, the case of the complainant is that the marriage between the complainant and respondent was solemnized on 04.03.2009 according to Hindu Rites and Ceremonies. The complainant has claimed to have suffered physical and mental abuse at the hands of the respondent. It is the case of the complainant/wife that the respondent/husband has neglected and refused to maintain the complainant despite having sufficient means to maintain her.

5. The marriage between the parties is not disputed. It is also admitted that both the parties are residing separately since November 2013. Needless to say that allegations and counter allegations levelled by the parties are the matter of trial.

6. Ld. Counsel for the appellant has argued that the Ld. Trial Court has passed the impugned order in a mechanical manner without considering the entire facts of the case. Ld. Trial Court has failed to properly appreciate the material on record and has passed the impugned order on the basis of the surmises and conjectures. The interim maintenance fixed @ Rs.10,000/- per

month is claimed to be not enough to maintain the same lifestyle maintained by the respondent. On these grounds, it is prayed that impugned order be set aside.

7. On the other hand, Ld. Counsel for the respondent has argued that the appeal is without any merit as the trial court took into consideration all the facts as pleaded by both the parties and thereafter passed the impugned order. It is prayed that the appeal be dismissed.

8. The appellant/wife in her income affidavit dated 22.04.2024 has averred that she has no source of income and she is residing in her parental house. The monthly expenses incurred for the maintenance of the complainant are also detailed in the affidavit. The appellant/wife in her income affidavit dated 22.04.2024 averred that she is B.A. Pass and is living separately since November, 2013. In para 2 of the Part-B of the said affidavit, it has been averred that she was awarded an amount of Rs.3,000/- per month as maintenance under section 24 of the Divorce petition filed at Asansole. In Part-D of said affidavit she has averred that neither party is suffering from any physical/mental disability. The appellant/wife has attributed an income of Rs.1,50,000/- to the respondent/husband but no documents regarding the respondent's attributed business has been placed on record or produced before this court.

9. On the other hand, the respondent/husband, in his income affidavit attested in December, 2023 has averred that he is residing in a joint family in an ancestral property and he works

on daily wage basis in a Jewellery Shop and he gets Rs.600/- per day and gets overtime of Rs.1,000/- per month approximately. He claims to have taken a LIC policy in 2017 but same was discontinued as he could not pay the premium. He claimed that his parents are aged and ailing and his brother is bearing their expenses and he earns only Rs.10,000/- per month by working as daily wager in a jewellery shop at Asansole, West Bengal.

10. The object and purpose of maintenance has been discussed by the Hon'ble Delhi High Court in ***Kanupriya Sharma Vs. State & Anr., 2019 SCC OnLine Del 8816***. Relevant paras 21 of this judgment is reproduced as follows :

"21. An application under Section 23(1) of the D.V. Act is an application for fixing interim maintenance. Interim maintenance is fixed on taking a prima facie view of the matter. Serious disputed questions of facts raised at that stage, requiring evidence cannot be gone into. Unless undisputed evidence is produced by the husband clearly establishing that the wife is gainfully employed, relief of interim maintenance cannot be declined."

11. In recent judgment of **Rajnesh vs. Neha & Anr. (2021) 2 SCC 324**, Hon'ble Supreme Court of India observed as under:-

"77.... The objective of granting interim /permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded."

12. In the case of **Smt. Jasbir Kaur Sehgal Vs. The**

District Judge Dehradun & Ors. (1997) 7 SCC 7, it was held by the Hon'ble Supreme Court as under :

“No set formula can be laid for fixing the amount of maintenance. It has, in very nature of things, to depend on the facts and circumstance of each case. Some scope for liverage can, however, be always there. Court has to consider the status of the parties, their respective needs, capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and those; he is obliged under the law and statutory but involuntary payments or deductions. Amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount so fixed cannot be excessive or extortionate.”

13. The appellant in his affidavit claimed to be working on daily wage basis in a Jewellery Shop and on an average gets work for 15 days and gets Rs.600/- per day and gets overtime of Rs.1,000/- per month approximately and has claimed to be staying with his parents. Admittedly, the parties have been living separately since 2013. The appellant as well as respondent are equally educated as both are graduate. In **Smt. Mamta Jaiswal Vs. Rajesh Jaiswal II (2000) DMC 170**, Hon'ble High Court has opined :

“In view of this, the question arises, as to in what way Section 24 of the Act has to be interpreted: Whether a spouse who has capacity of earning but chooses to remain idle, should be permitted to saddle other spouse with his or her expenditure ? Whether such spouse should be permitted to get pendente lite

alimony at higher rate from other spouse in such condition ? According to me, Section 24 has been enacted for the purpose of providing a monetary assistance to such spouse who is incapable of supporting himself Or herself inspite of sincere efforts made by him or herself. A spouse who is well qualified to get the service immediately with less efforts is not expected to remain idle to squeeze out, to milk out the other spouse by relieving him of his or her own purse by a cut in the nature of pendente lite alimony. The law does not expect the increasing number of such idle persons who by remaining in the arena of legal battles, try to squeeze out the adversary by implementing the provisions of law suitable to their purpose.” The Hon’ble High Court further opined that, “A lady who is fighting matrimonial petition filed for divorce, cannot be permitted to sit idle and to put her burden on the husband for demanding pendente lite alimony from him during pendency of such matrimonial petition. Section 24 is not meant for creating an army of such idle persons who would be sitting idle waiting for a 'dole' to be awarded by her husband who has got a grievance against her and who has gone to the Court for seeking a relief against her. The case may be vice versa also. If a husband well qualified, sufficient enough to earn, sit idle and puts his burden on the wife and waits for a 'dole' to be awarded by remaining entangled in litigation. That is also not permissible. The law does not help indolents as well idles so also does not want an army of self made lazy idles. Everyone has to earn for the purpose of maintenance of himself or herself, atleast, has to make sincere efforts in that direction. If this criteria is not applied, if this attitude is not adopted, there would be a tendency growing amongst such litigants to prolong such litigation and to milk out the adversary who happens to be a spouse, once dear but far away after an emerging of litigation. If such army is permitted to remain in existence, there would be no sincere efforts of amicable settlements because the lazy spouse would be very happy to fight and frustrate the efforts of amicable settlement because he would be reaping the money in the nature

of pendente lite alimony, and would prefer to be happy in remaining idle and not bothering himself or herself for any activity to support and maintain himself or herself That cannot be treated to be aim, goal of Section 24. It is indirectly against healthiness of the society. It has enacted for needy persons who in spite of sincere efforts and sufficient effort are unable to support and maintain themselves and are required to fight out the litigation jeopardising their hard earned income by toiling working hours.”

14. In the present matter, the appellant/wife does not have any child from this marriage and hence she had no responsibilities to attend which could have prevented her from making efforts for getting any suitable employment/avocation. The appellant is educated but no efforts have been shown to have been made by the appellant to make any sincere efforts of livelihood to support/maintain herself. Her capacity to earn does not dis-entitle her from getting maintenance from the respondent but her sincere efforts to earn some livelihood during all these years would have reflected her conduct in positive manner in this age of equality of both genders. The objective of granting maintenance U/s 125 CrPC is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded. The parties are yet to establish the exact avocation/earnings of other side and the reasons for their separate living by adducing positive evidence during course of trial.

15. Keeping in view the facts and circumstances of the

case, this court is of the opinion that the interim maintenance fixed by the Ld. Trial Court @ Rs.10,000/- per month for the complainant is reasonable in view of the bank account entries of the respondent/husband and the said order does not require any interference. Accordingly, this court does not find any infirmity or illegality in the impugned order dated 12.07.2025 of Ld. Trial Court and the same is accordingly upheld. **The appeal is hereby dismissed.**

16. Nothing expressed herein shall tantamount to any expression on the merits of the case.

17. Trial Court record be sent back along with copy of judgment. The appeal file be consigned to the record room after necessary compliance.

**Announced in the open court
today i.e. 18th October 2025**

(PREM KUMAR BARTHWAL)
Principal District & Sessions Judge,
South East, Saket Courts
New Delhi