



2026:DHC:2821



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

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*Judgment reserved on: 03.02.2026**Judgment pronounced on: 04.04.2026**Judgment uploaded on: 04.04.2026*+ **CRL.M.C. 5097/2024 & CRL.M.A. 19483/2024**

ANURAG MANOHAR KANKERWALPetitioner

Through: Mr. Prateek Jain, Advocate.

versus

SOHAM RANIRespondent

Through: Mr. Sunnirudh Kumar and Ms.
Ruby Rani, Advocates**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of present petition, the petitioner-husband seeks setting aside of the judgment dated 01.04.2024 [hereafter '*impugned judgment*'], passed by the learned ASJ-05, Shahadra, Karkardooma Courts, Delhi [hereafter '*Appellate Court*'], in Criminal Appeal No. 45/2023 preferred under Section 29 of the Protection of Women from Domestic Violence Act, 2005 [hereafter '*PWDV Act*'], whereby the order dated 28.02.2023 passed by the learned MM (Mahila Court)-01, Shahadra, Karkardooma Courts, Delhi [hereafter '*Trial Court*'] in Ct. Cases 2271/2020, instituted by the respondent-wife under Section 12 of the PWDV Act, was partially modified.



FACTUAL BACKGROUND

2. Briefly stated, the facts of the present case are that the marriage between the petitioner-husband and the respondent-wife was solemnised on 13.11.2013 as per Hindu rites and ceremonies. Out of the said wedlock, two male children, 'S' and 'A', were born on 25.08.2015 and 06.05.2017 respectively. However, owing to matrimonial discord between the parties, their relationship deteriorated and they started living separately in March 2019. It is stated that the elder son 'S' is presently in the custody of the petitioner-husband, whereas the younger son 'A' is in the custody of the respondent-wife.

3. Thereafter, on the basis of a complaint dated 31.08.2020 filed by the respondent-wife, FIR bearing No. 265/2020 was registered for offences under Sections 34/406/498A/354A of the IPC.

4. Subsequently, on 20.10.2020, the respondent-wife filed an application under Section 12 of the PWDV Act against the petitioner-husband and his family members, levelling several allegations of mental, physical and economic abuse, including allegations of beating and abusing her, levelling false allegations against her, and the petitioner-husband engaging in illicit relationships with other women. It was further alleged that in March 2019 she was thrown out of her matrimonial home and, since then, has been residing at her parental home along with the minor son 'A'. It was also stated that the petitioner-husband was employed as a Junior Engineer in MCD and was earning about ₹80,000/- per month as salary, along with



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rental income of about ₹1,00,000/- per month.

5. During the course of proceedings, the statement of the respondent-wife was recorded by the learned Trial Court on 14.03.2022, wherein she stated that a property in Rohini had been purchased in her name by the petitioner-husband in the year 2018 for about ₹40,00,000/-, for which the petitioner-husband had arranged the finances. She further stated that after their separation in April 2019, the said property was sold with her consent and she received about ₹40,00,000/- as sale consideration in her bank account. Out of the said amount, about ₹20,00,000/- was utilised towards repayment of a bank loan and the remaining amount was withdrawn by her. She further stated that the said amount had been spent by her during the years 2020 and 2021 towards the upkeep of herself and the minor child in her custody, and that about ₹2,00,000/- was still available with her for meeting her expenses.

6. Eventually, *vide* order dated 28.02.2023, the learned Trial Court directed the petitioner-husband to pay ₹15,000/- per month to the respondent-wife and ₹10,000/- per month to the minor son 'A' as interim maintenance, with effect from the date of passing of the said order. The learned Trial Court further observed that the sale consideration amount of ₹20,00,000/-, which had admittedly been received by the respondent-wife, shall be adjusted towards the interim maintenance for the period from April 2019, i.e., when she had left the matrimonial home, till the date of passing of the said order, which would amount to about ₹40,000/- per month. The



concluding portion of the order reads as under:

“...In view of the above discussion, R1 is directed to make payment of interim maintenance of Rs.15,000/- per month to complainant and Rs. 10,000/- per month for the minor child namely Aarav directly into bank account of complainant from the date of the present order i.e. 28.02.2023 till disposal of the present complaint or till such time, complainant is entitled to receive the same or the child attains majority, whichever is earlier. Interim maintenance is awarded from the date of the order as the complainant has herself admitted to have received Rs. 20,00,000/- in lieu of sale consideration which even if calculated month wise turns out to be approximately Rs. 40,000/- per month since April, 2019. Complainant is already staying at her matrimonial house and her right to residence was secured vide order dated 14.03.2023 therefore, relief of payment of any rental expenses for securing alternate accommodation is hereby declined. Any amount already paid in any other proceedings shall be adjusted in the present matter upon actual payment...”

7. Aggrieved by the aforesaid order dated 28.02.2023, the petitioner-husband preferred an appeal before the learned Appellate Court. The learned Appellate Court, *vide* the impugned judgment dated 01.04.2024, held that the interim maintenance amount of ₹25,000/- per month granted to the respondent-wife and the minor child ought to have been adjusted against the sum of ₹20,00,000/- admittedly received by the respondent-wife from the date of separation, i.e., April 2019, and that the said amount would accordingly cover the period till December 2025. Thus, it was directed that the amount of interim maintenance of ₹15,000/- per month payable to the respondent-wife shall become payable only with effect from 01.01.2026 till disposal of the petition. However, it was also observed that since the petitioner-husband had expressed



willingness to pay towards the expenses of the minor son 'A', the amount of ₹10,000/- per month as interim maintenance for the minor child shall be payable from the date of passing of the order dated 28.02.2023. The concluding portion of the order reads as under:

“12. A bare reading of the impugned order would provide that Ld. Trial Court adopted a self-contradictory approach to adjust the amount already paid and the one granted prospectively. Considering the period from April 2019 to February 2023 (both months inclusive) to be 47 months, respondent/wife utilized Rs. 42,550/- (approximately) per month on the sustenance of herself and her one child. Further, Ld. Trial Court after considering the respective income affidavits of both parties, assessed the monthly interim maintenance to be Rs. 25,000/-. There is no reasonable explanation of adopting such an approach. In the opinion of this Court, respondent/wife and her child were either entitled to receive interim maintenance of Rs. 40,000/- per month w.e.f April 2019 or they were entitled to Rs. 25,000/- per month from the said date. While Ld. Trial Court has passed a reasoned order for deciding the interim maintenance of Rs. 25,000/- per month, there is no reason why an amount much higher than this one was awarded for the initial years. While the expenses increase with time, growth of child and due to inflation over the years, the opposite thereof is hypothetical and unreasonable.

13. In such circumstances, this Court is also of the opinion that Ld. Trial Court after assessment of interim maintenance amount of Rs. 25,000/- per month, should have adjusted the amount of Rs. 20 lacs admittedly received by her, at the rate of said monthly amount and not otherwise. In that case, Rs. 25,000/- per month w.e.f April 2019 would have served the respondent/wife and her minor child for a period of 80 months i.e. till December 2025. Having observed this, it is hereby ordered that respondent/wife shall not be entitled to any monthly interim maintenance till 31.12.2025 having utilised the amount of Rs. 20 lacs received by her in the year 2019, The amount of interim maintenance of Rs. 15,000/- per month to respondent/wife shall be payable with effect from 01.01.2026 till the disposal of pending complaint before Ld. Trial Court or till such time, respondent/wife is entitled to received the same, whichever is earlier.”



8. Aggrieved thereby, the present petition has been filed before this Court.

SUBMISSIONS BEFORE THE COURT

9. The learned counsel appearing for the petitioner-husband argues that the respondent-wife used to subject the petitioner to acts of domestic violence by allegedly administering poisoned food to him and by using abusive language on a daily basis. It is further argued that, while passing the impugned orders, the learned Trial Court failed to take into consideration the financial liabilities and expenses of the petitioner, such as payment of home loan instalments, health insurance, LIC premiums, school fees, medical expenses, and other necessary expenditures. It is further argued that the learned Trial Court failed to appreciate the petitioner's allegation that the respondent was in an illicit relationship with her female friend and that she was allegedly planning and hatching a conspiracy to harm the petitioner and his family members. It is also contended that the respondent is a postgraduate with good educational qualifications and was gainfully employed prior to the separation; however, she has deliberately left her employment in order to claim maintenance from the petitioner. The learned counsel further submits that the respondent, in her statement recorded on 14.03.2022 before the learned Trial Court, had admitted that the property bearing No. B-1128, Sector-11, Rohini, Delhi had been purchased by the petitioner in her name and that the entire sale consideration had been arranged



by the petitioner. It is submitted that the said property was subsequently sold by the respondent and she received a sum of ₹40,00,000/- as sale consideration, out of which ₹20,00,000/- was utilised by her towards repayment of the bank loan which had been availed for purchasing the property, while the remaining ₹20,00,000/- was retained and utilised by her. It is further submitted that the petitioner is bearing the expenses of his aged parents as well as the elder son who is residing with him, and is also contributing towards the expenses of the younger son 'A', who is in the custody of the respondent. It is also argued that the learned Appellate Court, while deciding the appeal, erred in directing that the amount of ₹20,00,000/- received by the respondent-wife from the sale of the property be adjusted towards maintenance from the date of separation of the parties, i.e., April 2019, instead of from the date of filing of the application under PWDV Act. It is also contended that the learned Appellate Court erred in granting an additional sum of ₹10,000/- per month towards maintenance of the minor child, since the amount of ₹25,000/- per month already taken into account for adjustment included the expenses of the child. On these grounds, it is prayed that the impugned judgment and orders be set aside.

10. On the other hand, the learned counsel appearing for the respondent-wife argues that the petitioner-husband and his family members used to harass, humiliate and misbehave with the respondent-wife despite the fact that sufficient articles, as per the demands of the petitioner and his family members, had been given by



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the family of the respondent at the time of marriage. It is further argued that in March 2019, the respondent, along with the younger son, was thrown out of the matrimonial home and, having no other option, she returned to her parental home along with the minor child. It is further submitted that the respondent has categorically denied the allegations regarding any illicit relationship with her friend. Rather, it is alleged that the petitioner herein had hacked the respondent's mobile phone and used to control and monitor her messages and calls. It is also submitted that the bank account in question had been opened by the respondent under pressure from the petitioner and that even thereafter, the passbook as well as the ATM/Debit card remained in the possession of the petitioner, who used to operate the account and carry out transactions on his own. The learned counsel for the respondent-wife further submits that the respondent had purchased a property for a sum of about ₹40,00,000/-, for which the amount had been arranged from multiple sources, i.e. ₹5,00,000/- from her father-in-law, ₹10,00,000/- from the petitioner, ₹5,00,000/- from her personal savings, and ₹20,00,000/- through a housing loan. It is submitted that the said property was subsequently sold for ₹42,00,000/-, out of which ₹20,00,000/- was repaid to the bank towards the housing loan, ₹5,00,000/- was returned to the father-in-law, and ₹6,00,000/- was returned to the petitioner, while the remaining amount was retained by the respondent-wife for the upkeep and maintenance of herself and the minor child. It is further contended that after the separation, the petitioner sold the



matrimonial home bearing House No. 315, I Floor, C-2, Yamuna Vihar, Delhi-110053 on 19.06.2020 without any information, consent or knowledge of the respondent. It is also alleged that the petitioner deliberately concealed his permanent address not only from the respondent but also from the Court, and that only pursuant to directions of the Court did the petitioner file his present address. It is lastly submitted that after the separation, the petitioner did not spend any amount towards the maintenance, residence or welfare of the respondent-wife and the children, and thus, it is prayed that the present petition be dismissed, as no interference is warranted in the impugned judgment and order.

11. This Court has **heard** arguments addressed by the learned counsel for the petitioner as well as the learned counsel for the respondent, and has perused the material available on record.

ANALYSIS & FINDINGS

12. The issues that arise for consideration before this Court are: (i) whether the respondent-wife is entitled to grant of interim maintenance under the provisions of the PWDV Act in the facts and circumstances of the present case; (ii) whether the allegations raised by the petitioner-husband regarding the conduct of the respondent-wife, including the plea that she was in an illicit relationship and had subjected him to acts of cruelty, disentitle her from claiming maintenance; (iii) if the respondent-wife is held entitled to maintenance, what would be the appropriate quantum of interim maintenance payable to her and the minor child; and (iv) whether the



learned Appellate Court was justified in directing that the amount of ₹20,00,000/-, admittedly received by the respondent-wife from the sale of the property, be adjusted towards the interim maintenance from the date of separation of the parties and in directing payment of interim maintenance in favour of the respondent-wife and the minor child in the manner reflected in the impugned judgment.

13. The first aspect relates to the argument of the petitioner-husband that he never subjected the respondent-wife to domestic violence and that, rather, he himself was a victim of domestic violence at her hands. It is contended that the allegations levelled against him by the respondent are false and that there is no material on record which even *prima facie* suggests that the respondent was subjected to cruelty or harassment by him. It is also his case that the material on record shows that the respondent had attempted to poison him, was engaged in an illicit relationship with one of her female friends, and frequently used abusive language towards him.

14. At the outset, this Court notes that the existence of a domestic relationship between the parties is not in dispute, since the marriage between them is admitted. A bare perusal of the application filed by the respondent-wife under Section 12 of the PWDV Act reveals that she has levelled several allegations of being subjected to cruelty and harassment by the petitioner-husband and his family members. These allegations, *inter alia*, include that they used to beat her, abuse her and humiliate her for bringing insufficient dowry from her parental home. There are also allegations of inappropriate and obscene



conduct by the brother of the petitioner towards her, as well as allegations of physical assault by the petitioner and his family members. Such allegations, if taken at face value, fall within the broad contours of ‘domestic violence’ as defined under the PWDV Act.

15. The learned Appellate Court, in this regard, has observed as under in the impugned judgment:

“9. As regards the issue of domestic violence, it is categorically stated in the petition u/s 12 of Domestic Violence Act by respondent/wife that appellant/husband and his family members used to harass, humiliate and misbehave with her. It is also alleged that he used to fight and had violent behaviour with her. She has also referred to different incidents when she was subjected to physical, emotional and economic abuse by appellant/husband.

It is observed that all allegations of domestic violence, although controverted by appellant/ husband, *prima facie* reflect infliction of domestic violence upon respondent/wife for the purpose of deciding the issue of interim maintenance. Although, one of the grounds of preferring the present appeal is non infliction of any domestic violence by appellant/husband, however, the issue can be finally decided only during trial.”

16. Thus, in the opinion of this Court, both the learned Trial Court and the learned Appellate Court have rightly formed a view that, at this stage, the respondent-wife *prima facie* satisfies the requirements of an ‘aggrieved person’ as defined under Section 2(a) of the PWDV Act, since the existence of a domestic relationship between the parties and the allegations of domestic violence during the subsistence of such relationship are *prima facie* borne out from the record.



17. One of the contentions raised by the learned counsel appearing for the petitioner–husband is that the respondent–wife was involved in an illicit relationship with one of her female friends. In support of this allegation, reliance is placed on an order dated 19.11.2022 passed by the learned Trial Court in the present case, wherein the learned counsel for the respondent had admitted document Annexure ‘I’ (pages 127 to 129), which was stated to be a settlement between the parties. The said settlement dated 04.03.2015 has been placed on record and purportedly indicates that the respondent had admitted to communicating with her female friend over the phone and intentionally instigating quarrels with the petitioner in order to meet her.

18. However, it is to be noted that the respondent had admitted the said document before the learned Trial Court on 19.11.2022 only to the extent that it had been prepared during the course of settlement discussions between the parties. Further, a perusal of the aforesaid document/settlement deed does not specifically reveal any admission that the respondent herein was in any relationship with her friend. Furthermore, this Court’s attention has also been drawn to another case pending between the parties i.e. HMA 234/2020 (*Soham Rani vs. Anurag Manohar Kankarwal*), wherein during the examination of respondent-wife on 01.12.2022 before the concerned Court, she admitted that the signatures appearing on the aforesaid document were hers, while specifically denying the allegation that she was in any illicit relationship with her friend. In these circumstances, this



Court is of the view that the veracity and evidentiary value of the said document, as well as the allegations arising therefrom, can only be determined upon a full-fledged trial after appreciation of evidence. At this stage, the issue remains a disputed question of fact.

19. The learned Appellate Court also, in this regard, has rightly observed as under:

“10. Firstly, as regards one affidavit dated 03.03.2015 which was admitted and acknowledged by respondent/wife vide ordersheet dated 19.11.2022 of Ld. Trial Court, it is observed that the said document was prepared way back in 2015 as a part of alleged settlement between the parties (as recorded in ordersheet dated 19.11.2022). The said document, as it stands on record today, does not affect the relationship or status of parties as husband and wife. Further, the said document and circumstances under which it was prepared, are yet to be tested on the touchstone of cross-examination. As such, the ‘impact’ of such a document or impact of admission of ‘existence’ thereof is strictly a matter of trial. In the opinion of this Court, this affidavit cannot be considered as a factor too significant to deny the right of interim maintenance to the respondent/wife.”

20. In *Ajay Kumar v. Uma*: 2024 SCC OnLine Del 148, a Coordinate Bench of this Court held that interim maintenance under the PWDV Act cannot be denied merely on the basis of unsubstantiated allegations of an illicit relationship.

21. This Bench also, in *Ateet Jain v. Chhavi Jain*: 2026:DHC:913, in context of PWDV Act, has observed as under:

“21. Notably, unlike Section 125(4) of the Cr.P.C., there is *no express statutory bar* under the PWDV Act disentitling a woman from seeking reliefs merely on the allegation that she is living in adultery. However, **Explanation II to Section 3** of the PWDV Act clarifies that, for the purposes of determining whether any act, omission or conduct constitutes “domestic



violence”, the overall facts and circumstances of the case are required to be taken into consideration. Thus, any material or evidence relating to the conduct of the wife, including allegations of adultery, would undoubtedly be a relevant factor; however, the same would essentially be a matter requiring adjudication after evidence is led.”

22. Therefore, at this stage, the Court is only required to examine whether a *prima facie* case exists against the petitioner–husband, and a perusal of the allegations made by the respondent–wife indicates that such a *prima facie* case is indeed made out. In view of the above, this Court does not find it appropriate to deny interim maintenance to the respondent merely on the ground of bald and unsubstantiated allegations that she is, or earlier was, in any alleged illicit relationship.

23. Next, the issue of quantum of maintenance is to be considered. It has been contended by the petitioner-husband that the order granting maintenance was passed without properly analysing his financial liabilities. According to the petitioner, he is required to incur several monthly expenses, including payment of a home loan instalment of about ₹40,000/- per month, health insurance premium of about ₹20,000/-, LIC policy premiums, school fees of the elder son amounting to ₹11,000/- per month, and household expenses of about ₹20,000/- per month. It is further submitted that the petitioner is also responsible for maintaining his aged parents, including their daily and medical expenses, and that he is also contributing towards the expenses of his younger son who is presently in the custody of the respondent-wife.



24. In the considered opinion of this Court, the settled legal position is that voluntary expenses such as repayment of loans, LIC premiums and health insurance premiums cannot override the statutory duty to pay maintenance. In other words, a person cannot, in the garb of such financial commitments, evade or dilute his legal and moral obligation to maintain his wife and child. The obligation to provide maintenance to the wife and the minor child is a paramount responsibility, and the petitioner cannot be permitted to defeat the same by placing undue reliance on liabilities which are either voluntary in nature or arise out of his personal financial arrangements. Only statutory deductions from salary are ordinarily taken into account while determining interim maintenance. In this regard, reference may be made to the decision of the Division Bench of this Court in ***Subhash v. Mamta @ Raksha: MAT. APP. (F.C.) No. 195/2025***, decided on 26.05.2025, wherein it was categorically held that repayment of personal loans and EMIs voluntarily undertaken by the earning spouse cannot be treated as permissible deductions so as to dilute or override the primary obligation to maintain a dependent spouse or child. The Court reiterated that the determination of maintenance must be based on the “free income” of the earning spouse and not on the net income that remains after accounting for voluntary financial commitments.

25. Further, as regards the assessment of the income of the petitioner-husband, the material on record, including the salary slip, indicates that he earns about ₹80,000/- per month, which is also the



admitted income of the petitioner. The petitioner has also stated that he bears the financial responsibility of his aged father and mother, both aged more than 80 years, as well as the elder son who is presently in his custody.

26. In such a situation where there are two children, the wife, and the husband's aged parents, the income of the husband may be apportioned by allocating two shares to the husband and one share each to the wife, both children and both parents, as explained by this Court in ***Annurita Vohra v. Sandeep Vohra***: 2004 SCC OnLine Del 192. Applying the said principle, and considering the petitioner's monthly income to be about ₹80,000/-, the amount of interim maintenance payable to the respondent-wife and the minor son, assessed at ₹25,000/- per month by the learned Trial Court, appears to be reasonable and fair in the facts and circumstances of the present case.

27. One of the grounds raised by the petitioner-husband is that the respondent-wife is a well-educated woman holding a postgraduate degree (M.A.), and that she was employed prior to the separation of the parties but has deliberately chosen not to work in order to claim maintenance from the petitioner.

28. This contention, however, is not supported by any material on record. At this stage, there is nothing to indicate that the respondent was independently employed prior to the separation of the parties. It has been stated that a beauty parlour had been opened by the petitioner himself, but even there another girl had been appointed to



run the parlour as the respondent allegedly did not possess the requisite skills to manage the work of a parlour. Apart from this, no document or material has been placed on record to demonstrate that the respondent was gainfully employed at any point of time.

29. In this regard, this Court is also of the view that there is a clear distinction between a person being capable of earning and a person actually earning. It is well settled that mere educational qualification or the capacity to earn does not *ipso facto* establish that a wife is actually earning. The distinction between the ability to earn and actual income has been recognised by the Hon'ble Supreme Court in ***Shailja & Anr. v. Khobbanna: (2018) 12 SCC 199.***

30. Therefore, in the present case, in the absence of any material to indicate that the respondent-wife is actually employed or earning any independent income, there is no ground to deny interim maintenance to her merely on the basis that she is a postgraduate.

31. Lastly, the attention of this Court has been drawn to the fact that a property situated in Rohini had been purchased in the name of the respondent-wife and was subsequently sold for a sum of about ₹40,00,000/- by her. It has come on record that out of the said sale consideration, ₹20,00,000/- (approximately) were utilised towards repayment of the housing loan taken for purchase of the property, while the remaining amount of about ₹20,00,000/- was received by the respondent and used by her for her personal expenses and for the upkeep of herself and the minor child in her custody.



32. This Court notes that the property in question had already been sold in May 2019. The respondent–wife, in her statement dated 14.03.2022 before the learned Trial Court, admitted that while living separately from the petitioner-husband, she had sold the property bearing No. D-1/28, Sector-11, Rohini, Delhi, for a total consideration of ₹40,00,000/-. The said property had originally been purchased in her name, for which a bank loan had been availed, along with finances arranged by the petitioner-husband for its purchase. The respondent further stated that in April 2019, after the parties had separated, the petitioner had approached her for sale of the said property, to which she had agreed.

33. It was also admitted by the respondent that out of the total sale consideration of ₹40,00,000/-, a sum of ₹20,00,000/- was utilised towards repayment of the bank loan which had been availed for purchase of the property, while the remaining amount of ₹20,00,000/- was withdrawn and retained by her. According to the petitioner, this amount belonged to him and his father, as the same had been advanced to the respondent as a loan at the time of purchasing the property. On the other hand, the respondent has stated that the remaining amount was utilised by her for her personal expenses and for the upbringing of the younger son ‘A’.

34. In this regard, this Court observes that the learned Trial Court, *vide* order dated 28.02.2023, had awarded an amount of ₹25,000/- per month as interim maintenance to the respondent and the minor son in her custody. The learned Trial Court had also taken into account the



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amount of ₹20,00,000/- received by the respondent from the sale of the property and had adjusted the same by calculating a notional amount of about ₹40,000/- per month for the period from April 2019 to February 2023, i.e., from the date of separation of the parties till the passing of the order dated 28.02.2023. The learned Trial Court had accordingly directed that the interim maintenance of ₹25,000/- per month in favour of the respondent-wife and the minor son 'A' shall be payable from the date of the order, i.e., 28.02.2023.

35. Subsequently, the learned Sessions Court, while adjudicating the appeal *vide* the impugned judgment dated 01.04.2024, modified the calculation made by the learned Trial Court. The learned Appellate Court directed that the amount of ₹20,00,000/- received by the respondent-wife from the sale of the property, which was admittedly utilised by her for maintenance, be adjusted at the rate of ₹25,000/- per month with effect from April 2019 onwards, which would cover the period till December 2025. Accordingly, it was directed that the amount of ₹15,000/- per month towards maintenance of the respondent-wife (out of the total interim maintenance of ₹25,000/-) would become payable only from 01.01.2026 onwards. However, at the same time, the learned Appellate Court observed that since the petitioner-husband, in his income affidavit, had expressed willingness to bear the necessary expenses of the minor son who is in the custody of the respondent-wife, the amount of ₹10,000/- per month towards interim maintenance of the minor child would be payable from the date of the order itself, i.e., 28.02.2023.



36. At this stage, it is pertinent to note that the respondent-wife has specifically stated before this Court, as also in the written arguments filed on record, that she has no grievance with the amount of ₹20,00,000/- received by her from sale consideration of property being adjusted against interim maintenance of ₹25,000/- per month from April 2019 to 31.12.2025, and she being granted interim maintenance w.e.f. 01.01.2026.

37. This Court notes that both the learned Trial Court and the learned Appellate Court, while adjusting the amount of ₹20,00,000/- received by the respondent-wife from the sale of the property towards interim maintenance, have computed the adjustment from the date of separation of the parties, i.e., April 2019, and not from the date of filing of the application under Section 12 of the PWDV Act, which was filed on 20.10.2020.

38. It is well settled that interim maintenance is ordinarily to be granted from the date of filing of the application. In **Rajnesh v. Neha**: (2021) 2 SCC 324, the Hon'ble Supreme Court has observed as under:

“89. Even though a judicial discretion is conferred upon the Court to grant maintenance either from the date of application or from the date of the order in Section 125(2) Code of Criminal Procedure, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 Code of Criminal Procedure. In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.”



39. In the present case, the question that arises for consideration is whether the amount of ₹20,00,000/- admittedly received by the respondent-wife from sale of the property, as noted above, ought to be adjusted from the date of separation of the parties or from the date on which the application seeking maintenance was filed. Upon consideration, this Court is of the view that the amount received by the respondent is liable to be adjusted against the interim maintenance awarded to her; **however**, since the settled legal position is that interim maintenance is to be granted from the date of filing of the application seeking maintenance and not from the date of separation of parties, as held in **Rajnesh v. Neha** (*supra*), the adjustment of the said amount must also be computed from the date of filing of the application and not from the date of separation of the parties.

40. Accordingly, the amount of ₹20,00,000/- received by the respondent-wife from the sale of the property shall be adjusted against the interim maintenance amount of ₹25,000/- per month from the date of filing of the application under the PWDV Act, i.e., 20.10.2020, and not from the date of separation in April 2019. The said amount shall thus stand adjusted for the period from 20.10.2020 till 20.06.2027.

41. Since the amount of interim maintenance of ₹25,000/- per month is being adjusted against the sum of ₹20,00,000/- received by the respondent-wife from the sale of the property – an amount which



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she admittedly utilised for her personal expenses and for the upbringing of the minor son 'A', for the period from the date of filing of the application till 20.06.2027 – the said amount of ₹25,000/- per month also includes the maintenance component payable towards the minor son 'A' as well.

42. Accordingly, both the respondent-wife as well as the minor son shall be entitled to receive consolidated interim maintenance of ₹25,000/- per month with effect from 21.06.2027 onwards.

43. Any amount paid and received by the respondent shall be adjusted in

44. In above terms, the present petition, along with pending application, is disposed of.

45. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

46. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

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