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

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*Judgment reserved on: 11.11.2025*

*Judgment pronounced on: 04.02.2026*

*Judgment uploaded on: 04.02.2026*

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**CRL.REV.P. 950/2017**

PREETI SHARMA

.....Petitioner

Through: Ms. Ankita Patnaik  
(DHCLSC)

versus

ANUJ SHARMA

.....Respondent

Through: Mr. K.S. Singh, Ms. Tripta  
Negi Singh, Ms. Ayushi Jain  
and Ms. Divyanshi Singh,  
Advocates.

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**CRL.REV.P. 295/2021**

PREETI SHARMA

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Through: Ms. Ankita Patnaik  
(DHCLSC)

versus

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.....Respondent

Through: Mr. K.S. Singh, Ms. Tripta  
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Advocates.

**CORAM:**

**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**



## DR. SWARANA KANTA SHARMA, J

1. By way of the revision petition bearing no. 950/2017, the petitioner (*divorced wife of the respondent*) is seeking setting aside of the impugned judgment dated 12.07.2017, passed by the learned Principal Judge, Family Courts, East District, Vishwas Nagar, Delhi [hereafter '*Family Court*'], in CC No. 148/2014; and by way of revision petition bearing no. 295/2021, she seeks setting aside of the judgment dated 06.04.2021 passed in Ex/CRL. 375/2018 in CC No. 148/2014.

### FACTUAL BACKGROUND

2. Briefly stated, the facts of the present case are that the petitioner was married to the respondent on 09.02.1999. According to the petitioner, soon after the marriage, she was subjected to harassment by the respondent and his family members. In these circumstances, the petitioner filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'], being MP No. 416A/2003. *Vide* order dated 23.10.2004, the learned Metropolitan Magistrate, Mahila Court, East District, Karkardooma Courts, Delhi awarded maintenance of ₹3,000/- per month to the petitioner. The said order was challenged before the learned Sessions Court, and in Criminal Revision No. 09/2005, the learned Additional Sessions Judge, *vide* consent order dated 21.09.2005, enhanced the maintenance from ₹3,000/- to ₹6,000/- per month with effect from the date of the order, i.e., 21.09.2005.



3. Thereafter, the petitioner filed a petition bearing No. 214/07 under Section 127 of the Cr.P.C. seeking further enhancement of maintenance on the ground of change in circumstances.

4. In the meantime, in the year 2006, the respondent filed a petition under the Hindu Marriage Act, 1955, being HMA No. 187/2006, titled *Anuj Sharma v. Preeti Sharma*, seeking dissolution of marriage under Sections 13(1)(i-a), 13(1)(iii) and 13(1)(i-b) of the Act, on the grounds of cruelty, insanity and desertion. During the pendency of the said proceedings, this Court, *vide* order dated 11.05.2007 passed in CMM(M) No. 127/2007, appointed the mother of the petitioner as her guardian for the limited purpose of filing the written statement in the divorce proceedings, keeping in view the allegation of insanity levelled against the petitioner by the respondent. Subsequently, *vide* judgment dated 10.01.2008 passed in HMA No. 187/2006, the learned Court allowed the petition and granted a decree of divorce in favour of the respondent on the grounds of cruelty and insanity. The petitioner challenged the said judgment by way of MAT Appeal No. 77/2008. During the pendency of the appeal, the respondent remarried in the year 2008, and a daughter was born from the said wedlock in the year 2011. Eventually, MAT Appeal No. 77/2008 was dismissed for non-prosecution by the Division Bench of this Court vide order dated 16.12.2014, as a result of which the decree of divorce attained finality.

5. In the meantime, the petitioner's earlier petition under Section



127 of the Cr.P.C. (Petition No. 214/07) came to be dismissed by the learned Magistrate *vide* order dated 18.11.2010 on the ground that it was not maintainable, as it had been filed by the mother of the petitioner on her behalf. The learned Magistrate observed that reliance placed on the order dated 11.05.2007 passed in CMM(M) No. 127/2007 was misplaced, as the said order was limited to the proceedings arising out of HMA No. 187/2006. While dismissing the petition, liberty was granted to the petitioner to file a fresh petition in her own name on the same cause of action.

6. Pursuant thereto, in January 2011, the petitioner filed a fresh petition under Section 127 of the Cr.P.C., registered as CC No. 148/2014, seeking enhancement of maintenance from ₹6,000/- per month to ₹1,20,000/- per month.

7. The said petition was decided by the Family Court *vide* the impugned judgment dated 12.07.2017, whereby the respondent was directed to pay enhanced maintenance of ₹9,000/- per month from the date of filing of the application under Section 127 of the Cr.P.C., i.e., 13.01.2011, till the date of the passing of order, and further directed to pay future maintenance in the sum of ₹15,000/- per month from the date of the order, for so long as the petitioner remains entitled to receive the same. It was concluded as under:

“...Keeping in view the cost of living as compared to the year 2005 when the maintenance of Rs.6000/- was awarded to petitioner and also looking to the fact that the respondent is willing to enhance the maintenance amount commensurate to increased price index, the respondent is directed to pay the



maintenance amount of Rs.9,000/- pm from date of petition//application under Sec. 127 Cr.P.C. ie. 13.1.2011 till the date of this order and pay the future maintenance @ Rs.15,000/- pm from the date of order till the petitioner is entitled to receive the same. She is granted litigation expenses of Rs.7,000/-. The respondent shall pay the arrears of maintenance and litigation expenses within three months. A copy of order be supplied free of cost to the petitioner.”

8. The said judgment dated 12.07.2017 is under challenge before this Court in *CRL.REV.P. No. 950/2017*.

9. In the year 2018, the petitioner filed an execution petition, being Ex./CRL No. 375/2018, alleging that the respondent had failed to clear the arrears of maintenance. The said execution petition was disposed of by the learned Family Court *vide* the impugned order dated 06.04.2021, wherein it was observed that, as per the report of the Nazir, the petitioner had already received the entire amount of maintenance, including an excess payment of ₹2,200/-, and therefore, nothing survived for adjudication in the said petition. The said order reads as under:

“Ld. Counsel for DH has stated that complete payment has not been made. Ld. Counsel further submits that as per order dated 12.07.2017 JD was supposed to pay Rs. 15,000/- per month from the date of application i.e. 13.01.2011. Operative portion is noted as follow:-

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The order clearly states that Rs.9,000/- was to be paid from 13.01.2011 to 12.07.2017 i.e that is from the date of the application to the date of order and thereafter, JD was directed to pay Rs. 15,000/- per month. The amount of Rs. 9,000/- is not in addition to the previous amount of Rs. 6,000/- per month.

Ld. Counsel for DH now submits that litigation expenses of Rs. 7,000/- has also not been paid.

As per report of Nazir, after considering the order as



made and after taking into account the litigation expenses of Rs. 7,000/- access payment of Rs. 2,200/- has been received by the DH. The same is accepted by Ld. Counsel as stated. Statement has been prepared by the Nazir on the basis of statement of account filed by the DH. The DH still disputes the same. She has however not been able to give any details apart from the statement of account already furnished.

In the circumstances, the execution application is disposed off as satisfied with access payment of Rs. 2,200/- being received.”

10. The aforesaid order dated 06.04.2021 is under challenge before this Court in *CRL.REV.P. No. 295/2021*.

#### SUBMISSIONS BEFORE THE COURT

##### *On behalf of the Petitioner*

11. The learned counsel appearing for the petitioner argues that while passing the impugned order dated 12.07.2017, the learned Family Court failed to properly appreciate the material facts and the legal submissions placed on record. It is contended that the enhanced amount of maintenance is grossly inadequate and does not reflect the true income of the respondent, who is a qualified Chartered Accountant working in Dubai and earning more than ₹6,00,000/- per month in Indian currency. It is further argued that the petitioner was gainfully employed prior to her marriage but was compelled to leave her job at the insistence of the respondent and his family, on an assurance of financial security. Having remained out of employment for several years, she is presently not in a position to secure dignified sustenance on her own. It is further contended that the respondent has taken contradictory and mutually destructive stands. On the one hand,



he sought and obtained a decree of divorce on the ground of the petitioner's alleged insanity, and on the other hand, he opposes her claim for adequate maintenance by asserting that she is capable of earning. The learned counsel further submits that the petitioner is presently residing with and dependent upon her parents, whereas the respondent is leading a comfortable and affluent life, and is therefore legally bound to maintain her. It is also argued that even on the respondent's admitted income of approximately 30,876 AED per month (about ₹5,72,000/-), the petitioner is claiming only around 6,500 AED towards maintenance, which cannot be said to be excessive or unreasonable.

12. The learned counsel further contends that even assuming, though not admitting, that the amount of maintenance fixed is reasonable, the learned Family Court erred in directing payment from 13.01.2011, i.e., the date of filing of the fresh petition under Section 127 of the Cr.P.C. It is argued that the maintenance ought to have been awarded from 21.07.2007, when the petitioner had first approached the court by filing a petition under Section 127 of the Cr.P.C., which came to be dismissed on 18.11.2010 on a technical ground, though with liberty to file a fresh petition on the same cause of action. It is contended that the petitioner should not be made to suffer on account of such technical dismissal, as the cause of action remained the same, and the delay was not attributable to her.

13. It is further argued that due to the respondent's failure to clear the arrears within six months of the order dated 12.07.2017, the



petitioner was constrained to file an execution petition. The learned counsel submits that for the period from 13.01.2011 to 30.06.2017, the total arrears amounted to ₹7,05,516/-, out of which only ₹2,42,100/- was paid by the respondent, including litigation expenses, leaving a balance of ₹4,63,416/-, apart from the statutory penalty of 25% for delayed payment. It is also contended that the learned Family Court failed to correctly appreciate its own order dated 12.07.2017, as the maintenance was enhanced by ₹9,000/- per month (and not – to ₹9,000/- per month) with effect from 13.01.2011, thereby making the total maintenance payable ₹15,000/- per month from that date. This is further evident from the direction of the learned Family Court to pay ₹15,000/- per month as future maintenance from the date of the order. It is argued that the execution petition was disposed of without proper consideration of the order dated 12.07.2017 sought to be executed.

14. In view of the substantial increase in the income of the respondent, it is contended that the petitioner is entitled to enhancement of maintenance, as the amount presently awarded is wholly insufficient for her reasonable and dignified sustenance, along with a direction for clearance of the outstanding arrears.

***On behalf of the Respondent***

15. The learned counsel appearing for the respondent, on the other hand, contends that the petitions under consideration are wholly misconceived and have been filed only with the intent to harass and pressurise the respondent. It is argued that the petitioner had earlier,



during mediation proceedings held on 21.09.2005, consented to enhancement of maintenance from ₹3,000/- to ₹6,000/- per month, and having accepted the same, she cannot now seek repeated enhancement on untenable grounds. It is further contended that even after filing MAT Appeal No. 77/2008 against the decree of divorce, the petitioner failed to take any steps to pursue the same, which ultimately resulted in its dismissal for non-prosecution, which reflects lack of bona fides and a deliberate attempt to keep the respondent entangled in prolonged litigation. The learned counsel submits that there is no infirmity in the order dated 06.04.2021, whereby the learned Family Court has rightly disposed of the execution petition after recording that the petitioner had already received the entire amount of maintenance, including an excess sum of ₹2,200/-. It is argued that despite regularly receiving maintenance in terms of the order dated 12.07.2017, the petitioner filed the execution petition by misrepresenting and misinterpreting the said order.

16. It is further argued that the petitioner is in the habit of initiating frivolous and malicious proceedings with the sole object of harassing and humiliating the respondent and his family members. In this regard, reference is made to a complaint filed by the petitioner under the Chartered Accountants Act, 1949 before the Institute of Chartered Accountants of India, allegedly with the intention of jeopardising the respondent's professional career. Such conduct, it is contended, disentitles the petitioner from any discretionary relief.

17. The learned counsel further submits that the petitioner is a



qualified person holding an Advanced Diploma in Computer Applications and was gainfully employed prior to her marriage. It is contended that she has independent sources of income, including income from fixed deposits and her share in ancestral joint family properties, which have been deliberately concealed. It is also argued that there has been a material change in circumstances in favour of the respondent. He has since remarried and has a school-going daughter from the said wedlock. The respondent is residing in the UAE in rented accommodation along with his wife and minor daughter. It is submitted that the child is studying in a public school at Sharjah and that the expenses towards her school fees and transportation have been duly disclosed in the respondent's affidavit of income and expenditure. The respondent is also burdened with loan liabilities, the obligation to maintain his senior citizen parents residing in Delhi, and the high cost of living in the UAE, all of which place him under considerable financial strain. In view of these circumstances and future responsibilities towards the education and marriage of the child, it is urged that the respondent's financial capacity is limited, whereas the petitioner has sufficient income, earning capacity, and no comparable liabilities.

18. On these grounds, the learned counsel for the respondent submits that the present petitions, as well as the challenge to the orders dated 12.07.2017 and 06.04.2021, are devoid of merit and are liable to be dismissed.

19. This Court has **heard** arguments addressed on behalf of the



petitioner as well as the respondent, and has perused the material available on record.

### **ANALYSIS & FINDINGS**

20. Upon careful consideration of the rival submissions advanced on behalf of the parties and upon a close scrutiny of the material available on record, this Court finds that the present matter raises three distinct issues which arise for consideration and determination.

These issues are:

- (i) Issue No. 1:** Whether a case is made out for further enhancement of the amount of maintenance awarded to the petitioner *vide* the impugned order dated 12.07.2017, having regard to the income and financial capacity of the respondent?
- (ii) Issue No. 2:** Whether the maintenance amount is liable to be made payable from 21.07.2007, being the date of filing of the earlier application under Section 127 of the Cr.P.C., or from 13.01.2011, as directed by the learned Family Court?
- (iii) Issue No. 3:** Whether the order dated 06.04.2021 passed by the learned Family Court in Ex./CRL No. 375/2018 suffers from an erroneous interpretation of the operative portion of the judgment dated 12.07.2017 and is, therefore, liable to be set aside?



***Issue no. 1- Whether a case is made out for further enhancement of the amount of maintenance awarded to the petitioner vide the impugned order dated 12.07.2017, having regard to the income and financial capacity of the respondent?***

21. This Court has considered the rival submissions advanced by the learned counsel for the parties, examined the pleadings, affidavits of income and expenditure, and the material placed on record, and has also taken into account the settled principles governing enhancement of maintenance under Section 127 of the Cr.P.C.

22. The scope and object of Section 127 of Cr.P.C. were considered by this Court in ***Sarita Bakshi v. State: 2022 SCC OnLine Del 1707***, where it was observed as under:

"13. The objective is to ensure that fair share according to changed income or changed circumstances is granted to the wife. In case the income of husband has increased or decreased, the amount of maintenance has to be modified accordingly. It is to ensure that if income has decreased, the husband is not put to any hardship. In case the income has increased, it ensures that wife receives fair share according to increased income of husband. Similarly, income of wife can also be considered if it accrues after grant of maintenance under Section 125 Cr.P.C. The assessment and apportionment of the maintenance has to be done as per the Judgment of Rajnesh v. Neha, (2021) 2 SCC 324 while deciding maintenance under Section 125 Cr.P.C.

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***Change in circumstance in context of Section 127 of Cr.P.C.***

16. The term "change in circumstances" as referred to in Section 127(1) not only include a change in the financial circumstances of the husband but may also include other circumstantial changes in the husband or wife's life which may have taken place since the time maintenance was first awarded. The quantum of maintenance fixed by a court does not become unalterable in perpetuity. The same may be altered and is



subject to increase or reduction by the courts, pursuant to an alteration in the circumstances of either party. Thus, Rise in the income of the husband can, therefore, be a valid change of circumstances falling within the ambit of Section 127 sub-section (1) of Cr.P.C.

17. In furtherance, it is vital to mention that the circumstances contemplated under Section 127 (1) include the financial and other circumstances of not only the husband but also will extend to the change in financial and other circumstances of the wife. It may therefore be concluded that increase in the income of the husband becomes a significant criterion to alter maintenance for the wife.

18. Further change of circumstances may not only be in terms of financial capability but also added financial burden on the petitioner. It may also be in terms of sufficient income accruing to the wife to maintain herself or both of them being relieved of a financial burden."

23. At the outset, it is to be noted that undisputedly, the petitioner is presently unemployed and has no independent source of income. The material on record shows that she is suffering from schizophrenia, a serious mental health condition, and no cogent material has been placed by the respondent to demonstrate that she is presently capable of earning or sustaining herself independently. The law draws a clear distinction between being educationally qualified and actually having a regular source of income. In the present case, the petitioner is around 45 years of age and has remained out of employment for more than two decades. In these circumstances, and particularly in view of her medical condition, the respondent's plea that she can earn for herself is wholly speculative and unsupported by any evidence. The income affidavit of the petitioner also reflects that she is entirely dependent upon her parents for her day-to-day needs.



24. This Court also finds merit in the submission that the respondent has taken inconsistent stands. On the one hand, he sought and obtained a decree of divorce on the ground that the petitioner was suffering from schizophrenia, projecting her mental condition as such that the marital relationship could not be sustained. On the other hand, he now seeks to deny her claim for adequate maintenance by contending that she is educated and capable of earning. These two arguments cannot coexist, and a party cannot be permitted to approbate and reprobate by adopting mutually destructive stands at different stages of the proceedings.

25. *If the petitioner's mental health condition was accepted by the court as a valid ground for dissolution of marriage, it is neither fair nor reasonable to expect her to independently maintain herself merely on the basis of her educational qualifications.* Mental illness may substantially impair a person's ability to secure and retain regular employment. Education, by itself, does not translate into employability, especially when accompanied by a medical condition that affects cognitive and emotional functioning of a person's mind. A husband who has secured divorce by relying upon the wife's mental condition cannot thereafter evade his statutory obligation by contending that she possesses the qualification and the capability to earn. Such a plea is clearly untenable and is accordingly rejected.

26. The respondent's further contention that enhancement of maintenance is not warranted since the petitioner is residing with her parents and belongs to a financially sound family is also without



merit. The obligation to maintain a wife under Sections 125 and 127 Cr.P.C. is personal to the husband and cannot be diluted on the basis of the financial capacity of the wife's parents. The petitioner is residing with her parents out of necessity and not by choice, and mere residence in the parental home does not amount to financial independence. Acceptance of such an argument would defeat the very object of the maintenance provisions. In this regard, reference may be made to the decision of the Hon'ble Supreme Court in ***Manish Jain v. Akanksha Jain***: (2017) 15 SCC 801, wherein it has been categorically held that the financial position of the parents of the wife is immaterial while determining maintenance, and that it is no answer to a claim for maintenance that the wife is educated or could potentially earn. The relevant observations of the Supreme Court are as under:

“15. An order for maintenance pendente lite or for costs of the proceedings is conditional on the circumstance that the wife or husband who makes a claim for the same has no independent income sufficient for her or his support or to meet the necessary expenses of the proceeding. It is no answer to a claim of maintenance that the wife is educated and could support herself. Likewise, the financial position of the wife's parents is also immaterial. The Court must take into consideration the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent income sufficient for her or his support. Maintenance is always dependent upon factual situation; the Court should, therefore, mould the claim for maintenance determining the quantum based on various factors brought before the Court.”

27. As regards the financial resources of the petitioner, the



impugned order dated 12.07.2017 records as under:

“As per the financial affidavit of petitioner, she is a graduate having professional qualification of advanced diploma in computer application staying with her parents. Her father is a retired government officer having income of Rs.1 Lakh p.m. She has no dependants/off-springs to look after. She has disclosed her income as Rs. 13,359/- p.m. and monthly expenditure of Rs.2,000%. Her bank balance is Rs.78,4871-. The current values of her FDRs, PPF and post office schemes are Rs.12,27,268/. She also disclosed that she has purchased gold, diamond and silver jewellery worth Rs.4 Lakhs from her current income since August, 2000 as an investment for future security. As regards immovable properties, she has disclosed that she jointly owned with respondent a flat in Delhi in 1999. The present status of which is not known to her. She lives in Sec.36, Noida and her residential accommodation is around 4,000 sq. feet.”

28. On the other hand, the respondent-husband is a highly qualified Chartered Accountant, presently employed in Dubai. At the time of passing of the impugned order in the year 2017, he was admittedly earning about 30,876 AED. At the relevant time, this Court takes judicial notice of the fact that the said amount would roughly convert to ₹5,50,000/- per month. His professional qualifications, stable overseas employment, and standard of living abroad clearly demonstrates strong financial capacity.

29. The submission of the respondent that, owing to high inflation and the cost of living in Dubai, it is difficult for him to maintain himself, his present wife, the daughter from his second marriage, as well as his parents residing in India, are factors which are relevant and cannot be ignored while adjudicating these petitions. However,



these circumstances, by themselves, cannot be a ground to deny or curtail the maintenance payable to the petitioner.

30. The respondent has further stated in his affidavit that his monthly expenditure is approximately AED 32,564/-, which includes rent, utilities, food, transportation, repayment of personal loans, and other voluntary financial liabilities, in addition to expenses towards the maintenance of his parents, wife, and the education and other needs of his daughter.

31. The contention of the respondent that his income should be assessed only after accounting for repayment of loan EMIs, personal loans, and other voluntary financial liabilities cannot be accepted. It is a settled position of law that while determining the income of a spouse for the purpose of fixing or enhancing maintenance, only statutory and mandatory deductions are to be considered. Voluntary financial commitments, including repayment of personal loans, home loan EMIs, insurance premiums, or similar expenses, cannot be permitted to dilute or defeat the statutory obligation to maintain a dependent spouse. 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 do not qualify as permissible deductions and cannot override the primary obligation to maintain a dependent spouse or child. The Court reiterated that maintenance is required to be assessed on the basis of



the “free income” of the earning spouse, and not on the net income remaining after voluntary deductions.

32. In view of the settled legal position, this Court is unable to accept the respondent’s plea that all the stated liabilities and expenses should be taken into account so as to curtail or deny enhancement of maintenance. *At the same time*, it must be borne in mind that the respondent is working and earning in Dubai, UAE, and therefore, the cost of living and standard of living in the country of employment are relevant considerations. In ***Bindu Chaudhary v. Deepak Suga: 2016:DHC:6795-DB***, it was held as under:

“7. If a person is working in Dubai, he earns in the currency of that country and spends also in that currency. It is not open to the wife to merely convert his income into Indian currency and seek enhancement. The Court has to consider the cost of living as per the living standards in the country where he is employed.”

33. A careful scrutiny of the respondent’s affidavit of income and expenditure reveals that even after excluding impermissible deductions and after accounting for reasonable expenses under various heads, the respondent would, on a conservative assessment, still be left with a monthly surplus of about AED 8-10,000/-, which would roughly translate to about ₹1.5-1.8 lakhs per month (in the year 2017). It is also relevant to note that the said income affidavit filed before the Family Court is about ten years old. Further, even as far back as the year 2007, the respondent had disclosed his income to be approximately ₹2.5 lakhs per month, reflecting a steady upward



trajectory in his earnings. Having regard to the passage of time, it can reasonably be inferred that the respondent's present income would be higher than what is reflected in the old affidavit. Therefore, it is clear that the respondent possesses sufficient financial capacity much beyond the amount presently being paid towards maintenance.

34. The object of Section 127 of the Cr.P.C. is to ensure that maintenance remains fair and realistic in light of changed circumstances, including the rise in cost of living and improvement in the financial position of the person liable to pay. Maintenance is not intended to be a mere subsistence allowance, but is meant to enable the dependent spouse to live with dignity, in a manner reasonably consistent with the status of the other spouse.

35. Having regard to the petitioner's medical condition, her lack of independent income, her dependence on her aged parents, and the respondent's substantial income, professional standing, and standard of living, this Court is of the considered opinion that the existing maintenance of ₹15,000/- per month is inadequate.

36. *Accordingly*, the maintenance payable to the petitioner, with effect from 12.07.2017, is enhanced to ₹20,000/- per month.

*Issue no. 2 - Whether the maintenance amount is liable to be made payable from 21.07.2007, being the date of filing of the earlier application under Section 127 of the Cr.P.C., or from 13.01.2011, as directed by the learned Family Court?*

37. The present revision petition also requires this Court to



examine the legality of the impugned order dated 12.07.2017 to the extent it relates to the date from which the enhanced maintenance has been made payable. By the said order, the learned Family Court enhanced the maintenance payable to the petitioner from ₹6,000/- per month to ₹9,000/- per month with effect from the date of filing of the application under Section 127 of Cr.P.C., i.e., 13.01.2011, and further fixed future maintenance at ₹15,000/- per month from the date of the order.

38. The grievance of the petitioner is that the enhancement ought to have been made operative from 21.07.2007, being the date on which an earlier application under Section 127 of Cr.P.C. was filed.

39. At the outset, it is relevant to note that the earlier application dated 21.07.2007 was dismissed by the learned Magistrate *vide* order dated 18.11.2010 on the ground of non-maintainability, as it had been filed through the mother of the petitioner. Though the dismissal was not on merits, the proceedings nonetheless came to an end, with liberty granted to the petitioner to file a fresh petition in her own name on the same cause of action.

40. The legal effect of such dismissal is that the earlier proceedings stood terminated and did not survive for any further consideration. The liberty granted by the learned Magistrate merely enabled the petitioner to initiate fresh proceedings; it did not have the effect of reviving the dismissed application or relating the subsequent proceedings back to the date of the earlier filing.



41. It is well settled that enhancement of maintenance under Section 127 of Cr.P.C. is ordinarily granted from the date of filing of the application seeking such enhancement, unless the court, for reasons to be recorded, directs otherwise. In the present case, the application filed on 21.07.2007 did not result in any adjudication and ceased to exist upon its dismissal. Consequently, it could not have been taken into account for determining the effective date of enhancement.

42. The fresh application under Section 127 of Cr.P.C. was admittedly filed on 13.01.2011. The learned Family Court, therefore, rightly granted enhanced maintenance from the said date. This Court finds no illegality or arbitrariness in the approach adopted by the learned Family Court in this regard.

43. The reliance placed by the petitioner on the earlier dismissed application to seek retrospective enhancement is misplaced. Once an application stands dismissed, even on technical grounds, the subsequent proceedings cannot be treated as a continuation thereof. Retrospective enhancement cannot be granted on the basis of a proceeding which no longer exists in the eyes of law.

44. This Court also finds that the learned Family Court has exercised its discretion judiciously and in accordance with settled principles. No perversity, illegality, or jurisdictional error has been demonstrated which would warrant interference in revisional jurisdiction.



45. Accordingly, this Court holds that the enhancement of maintenance with effect from 13.01.2011 is as per law and calls for no interference. The challenge raised by the petitioner on this aspect is devoid of merit. The impugned order dated 12.07.2017 is, therefore, affirmed, insofar as it relates to the effective date of enhancement of maintenance.

*Issue no. 3 : Whether the order dated 06.04.2021 passed by the learned Family Court in Ex./CRL No. 375/2018 suffers from an erroneous interpretation of the operative portion of the order dated 12.07.2017 and is, therefore, liable to be set aside?*

46. At the outset, it is necessary to examine the operative portion of the order dated 12.07.2017. By the said order, the learned Family Court directed the respondent to pay maintenance at the rate of ₹9,000/- per month from the date of filing of the application under Section 127 Cr.P.C., i.e., 13.01.2011, till the date of the order, and to pay future maintenance at the rate of ₹15,000/- per month from the date of the order onwards. Litigation expenses of ₹7,000/- were also awarded, with a direction to clear the arrears within three months.

47. A plain reading of the said order makes it abundantly clear that the maintenance payable to the petitioner was enhanced *to* ₹9,000/- per month for the period from 13.01.2011 till 12.07.2017. The order does not state, either expressly or by necessary implication, that an additional sum of ₹9,000/- was to be paid over and above the earlier maintenance of ₹6,000/- per month. In case, such an intention existed, the learned Family Court would have stated so in clear and



unambiguous terms.

48. The expression “pay maintenance amount of Rs.9,000/- pm from date of petition/application” necessarily signifies substitution of the earlier amount and not award of any additional amount over the existing amount. This interpretation is further reinforced by the subsequent direction granting future maintenance at the rate of ₹15,000/- per month from the date of the order. The clear demarcation of two distinct periods – one prior to the order and one thereafter – leaves no scope for ambiguity.

49. The learned Family Court, while passing the order dated 06.04.2021, has correctly appreciated the scope and intent of the order dated 12.07.2017. On ~~the basis~~ of the Nazir's report and the material on record, it was found that the respondent had already paid the entire amount due, including litigation expenses, and that an excess amount of ₹2,200/- had been received by the petitioner. The petitioner was unable to point out any concrete discrepancy in the calculation, apart from reiterating her own interpretation of the earlier order.

50. Thus, this Court finds no error in the conclusion reached by the learned Family Court that the petitioner's understanding – that the respondent was liable to pay ₹15,000/- per month even for the period prior to 12.07.2017 – is not borne out from the record.

51. In view of the above, this Court holds that the order dated 06.04.2021 does not suffer from any perversity, illegality, or



misinterpretation warranting interference in revisional jurisdiction. The execution petition was rightly disposed of as fully satisfied. Accordingly, the challenge to the order dated 06.04.2021 is without merit and is rejected.

52. This Court is also constrained to note that this particular issue raised by the petitioner, by way of *CRL.REV.P. No. 295/2021*, verges on being frivolous and reflects an inconsistent and shifting stand taken by the petitioner. In the earlier revision petition filed in the year 2017, which is also being decided by this common judgment, the petitioner had, throughout her pleadings, proceeded on the basis that the monthly maintenance had been *enhanced to* ₹9,000/- per month pursuant to the order dated 12.07.2017. At no stage was it pleaded that the maintenance had been *enhanced by* ₹9,000/-, so as to make the total maintenance payable @ ₹15,000/- per month with effect from 13.01.2011.

53. However, a complete summersault was taken when the execution petition was filed before the learned Family Court and thereafter when the present revision petition came to be filed in the year 2021 before this Court. For the first time, the petitioner sought to contend that the maintenance had been enhanced *by* ₹9,000/- and not *to* ₹9,000/-, despite the clear and unambiguous language of the order dated 12.07.2017. As observed above, such contention is not only contrary to the plain reading of the operative portion of the order dated 12.07.2017 but also inconsistent with the petitioner's own earlier pleadings before this Court. This attempt to re-interpret a clear



judicial order, after having accepted and acted upon it for years, can only be viewed as an effort on the part of the petitioner to reopen settled issues and burdening the docket of the Courts.

54. In view of the above, this Court is of the considered opinion that the present petition i.e. *CRL.REV.P. No. 295/2021* deserves to be dismissed with costs. Accordingly, the petition challenging the order dated 06.04.2021 is dismissed with nominal costs of ₹10,000/-, to be deposited with the Delhi State Legal Services Authority (Delhi High Court).

55. With above directions, the present petitions are disposed of.

56. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**FEBRUARY 04, 2026/A**  
*TD/GJ/RB*