IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 16th OF NOVEMBER, 2026

CRIMINAL REVISION No. 4928 of 2026

CNR No.: MPHC030306082026

DEEPAK KUSHWAH

Versus

SMT. SANGEETA KUSHWAH W/O DEEPAK KUSHWAH

Appearance:

Shri Ratan Nigam - Advocate for the applicant.

ORDER

The present criminal revision has been preferred by the applicant under Sections 397 and 401 of the Code of Criminal Procedure, calling in question the legality, validity and propriety of the order dated 06.08.2026 passed by the learned Court below in case No. MJCR 915/2025, whereby an amount of Rs.3,500/- per month has been directed to be paid towards interim maintenance.

The facts giving rise to the present revision, in brief, are that the applicant and the respondent are legally wedded husband and wife. Their marriage was solemnized on 16.01.2024 in accordance with Hindu rites and customs. After marriage, the respondent-wife started residing with the applicant at her matrimonial home. However, owing to certain matrimonial disputes and differences between the parties, the respondent-wife started residing separately from the applicant. Thereafter, the respondent-wife

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initiated proceedings under Section 125 of the Code of Criminal Procedure seeking maintenance from the applicant. During the pendency of the aforesaid proceedings, the respondent-wife moved an application seeking interim maintenance. The applicant opposed the said application by contending that the respondent-wife had left the matrimonial home voluntarily and without any sufficient cause. It was further alleged that the respondent-wife was maintaining an improper relationship with another person and certain conversations and other material available on her mobile phone indicated her association with the said person. The applicant also contended that the respondent-wife was not entitled to claim maintenance in view of the provisions contained in Sections 125(4) and 125(5) of the Code of Criminal Procedure. The learned Court below, after considering the rival submissions and the material available on record, passed the impugned order directing the applicant to pay interim maintenance at the rate of Rs.3,500/- per month to the respondent-wife. Being aggrieved by the aforesaid order, the applicant has preferred the present criminal revision.

Learned counsel appearing for the applicant submits that the impugned order passed by the learned Court below is contrary to the facts and circumstances of the case as well as the settled principles governing grant of maintenance under Section 125 of the Code of Criminal Procedure. It is contended that the learned Court below has failed to appreciate that the respondent-wife is residing separately from the applicant without there being any sufficient or justifiable reason for doing so. It is further submitted that the respondent-wife herself has withdrawn from the company of the

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applicant and is not willing to discharge her matrimonial obligations, and therefore, she cannot be permitted to take advantage of her own conduct by claiming maintenance from the applicant.

Learned counsel for the applicant further submits that the material brought on record by the applicant, particularly the conversations and other material allegedly recovered from the mobile phone of the respondent-wife, clearly raises serious doubts regarding her conduct and her alleged association with another person. According to learned counsel, these aspects were specifically brought to the notice of the learned Court below, but the same have not been properly appreciated while passing the impugned order. It is contended that the provisions of Sections 125(4) and 125(5) of the Code of Criminal Procedure specifically contemplate circumstances in which a wife would not be entitled to receive maintenance from her husband, and the learned Court below ought to have considered the aforesaid statutory provisions before passing the order of interim maintenance.

It is also contended that the applicant has been unnecessarily burdened with the liability of paying interim maintenance without proper consideration of the factual circumstances and the material available on record. Learned counsel, therefore, submits that the impugned order suffers from material illegality and non-application of mind and deserves to be set aside by exercising the revisional jurisdiction of this Court.

Heard learned counsel for the applicant and perused the record.

The question which arises for consideration before this Court is whether the impugned order passed by the learned Court below suffers from

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any illegality, impropriety or perversity so as to warrant interference in exercise of the revisional jurisdiction of this Court.

In the present case, the principal grievance of the applicant is that the respondent-wife has been residing separately without any sufficient cause and is allegedly maintaining an improper relationship with another person. Mere allegations made by one spouse against the other, in the absence of their proper substantiation, cannot by themselves be treated as conclusive proof of the circumstances contemplated under Section 125(4) of the Code of Criminal Procedure.

It is also pertinent to observe that the proceedings under Section 125 of the Code of Criminal Procedure are intended to provide immediate financial assistance to a person who is unable to maintain herself and to prevent destitution and vagrancy. The object of the provision is essentially social and remedial in nature. While considering an application for interim maintenance, the Court is required to undertake a prima facie assessment of the circumstances of the parties, their respective claims and the material available on record. Such an assessment at the interim stage is not required to be treated as a final determination of the rights and liabilities of the parties.

A perusal of the impugned order indicates that the learned Court below has considered the claim of the respondent-wife and the objections raised by the applicant and has thereafter exercised its discretion in directing payment of interim maintenance of Rs.3,500/- per month. The applicant has not been able to demonstrate that the learned Court below has exercised its jurisdiction arbitrarily or the impugned order is based upon an erroneous

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assumption of law or a material misreading of the record.

The contention of learned counsel for the applicant with regard to the alleged relationship of the respondent-wife with another person and the applicability of Sections 125(4) and 125(5) of the Code of Criminal Procedure may be considered by the learned Court below at the appropriate stage, after the parties are afforded an opportunity to lead evidence and establish their respective contentions. At this stage, this Court does not find any justification to record a conclusive finding on such disputed factual aspects, particularly when the proceedings for maintenance are still pending adjudication.

It is equally well settled that an order granting interim maintenance is essentially an interlocutory arrangement intended to safeguard the immediate financial requirements of the claimant during the pendency of the substantive proceedings. The same does not finally determine the entitlement of the respondent-wife to maintenance. The applicant shall have every opportunity to place relevant material and evidence before the learned Court below in support of his defence, including the grounds raised in the present revision, and the learned Court below shall consider the same independently while deciding the main proceedings, without being influenced by any *prima facie* observations made at the interim stage.

The jurisdiction of this Court under Sections 397 and 401 of the Code of Criminal Procedure is supervisory and revisional in nature. The revisional jurisdiction is not intended to provide another opportunity for re-appreciation of the entire material on record as if this Court were exercising appellate

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jurisdiction. Interference in revision is warranted only where the order under challenge suffers from patent illegality, material irregularity, perversity or an error of jurisdiction resulting in miscarriage of justice.

In view of the aforesaid discussion, this Court is of the considered opinion that the applicant has failed to point out any jurisdictional error, material irregularity, perversity or illegality in the impugned order warranting interference in exercise of revisional jurisdiction. The impugned order appears to have been passed after due consideration of the material available on record and the applicant has not been able to make out any ground for setting aside the same.

Consequently, this Court does not find any illegality, impropriety or perversity in the order dated 06.08.2026 passed by the learned Family Court so as to warrant interference. The present criminal revision, being devoid of merit, is hereby **dismissed.**

(MILIND RAMESH PHADKE)
JUDGE

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