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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR(F)-20-2023(O&M)  
Reserved on: 01.10.2024  
Pronounced on: 04.10.2024

Ajay Pratap Singh  
...Petitioner  
versus

Harjot Kaur and another  
...Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Brijeshwar Singh Bhalla, Advocate  
for the petitioner.  
  
Mr. Ashish Gupta, Advocate  
for the respondents.

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**HARPREET SINGH BRAR J.**

**CRM-685-2023**

The present application is preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') to place the pay slips of the petitioner for the months of December, 2019 and January, 2020, the death certificate of the father of the petitioner as well as affidavit filed by the petitioner before the learned Family Court, Faridkot annexed as Annexures P-1 to P-4.

For the reasons mentioned in the application, the present application is allowed and the documents are taken on record as Annexures P-1 to P-4, subject to all just exceptions.

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1. The present revision petition has been preferred against impugned judgment dated 03.11.2022 passed by the learned Principal Judge, Family



Court, Faridkot whereby Rs. 20,000/- per month has been granted to the respondents as maintenance under Section 125 Cr.P.C.

2. Briefly, the facts are that the marriage between the petitioner and respondent No.1 was solemnized on 25.02.2012 in accordance with Sikh rites and rituals and one male child i.e. respondent No.2 was born out of this wedlock. However, marital discord ensued and respondent No.1 were eventually shunned out of her matrimonial home. Thereafter, they filed for maintenance under Section 125 Cr.P.C. which was allowed and the respondents were granted Rs. 30,000/- per month (Rs. 20,000/- to respondent No.1 and Rs. 10,000/- to respondent No.2) as maintenance. Aggrieved by the same, the petitioner has preferred the present petition.

3. Learned counsel for the petitioner, *inter alia*, contended that the respondent No.1 had filed an application under Section 24 of the Hindu Marriage Act, 1954 which was allowed and a sum of Rs. 12,000/- per month was granted to her as maintenance *pendent lite*. The petitioner has already paid Rs. 5,28,000/- in all from 27.04.2018 to 27.12.2021 towards the same. As such, the learned Family Court has erred in granting maintenance under Section 125 Cr.P.C. since it doubles the liability on the petitioner, which is forbidden by settled law. Moreover, the learned Family Court has wrongly assumed the gross salary of the petitioner as Rs. 82,000/- per month while the same is in fact Rs. 60,938/- per month.

4. *Per contra* learned counsel for the respondent submitted that the learned Family Court has correctly awarded Rs. 30,000/- per month as maintenance keeping in view reasonable needs of the respondents and does not merit interference by this Court.

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5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner is employed as a teacher in Government School, Ghugiana. A perusal of the record reflects that his gross salary was Rs. 60,938/- and net salary was Rs. 54,100/- for the month of December, 2019(Annexure P-1) and January, 2020 (Annexure P-2) respectively. However, the petitioner has himself admitted that his salary was Rs. 71,110/- as also reflected in the affidavit of assets and liabilities filled in the month of April, 2022. Moreover, the petitioner has four savings accounts with a total deposit of Rs. 7,01,680/-, Rs. 5,00,00/- in form of fixed deposit as well as PPF amounting to Rs. 7,06,990/-. However, in his cross-examination, the petitioner admitted to his gross monthly salary being Rs. 82,000/-.

6. The object and purpose behind granting maintenance is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of failure of marriage. At the same time, a just and careful balance must be struck to ensure that this provision does not degenerate into a weapon to punish the other spouse. The Courts are required to conduct the maintenance proceedings, while being alive to the legislative intent behind the provision under Section 125 Cr.P.C in its true spirit, which is to provide speedy assistance and social justice to women, children and infirm parents. The provisions of Section 125 Cr.P.C. were enacted as a measure to further social justice and protect dependent women, children and parents, which also fall within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India.

7. A three-Judge Bench of the Hon'ble Supreme Court in ***Vimala (K.) vs. Veeraswamy (K.) (1991) 2 SCC 375***, speaking through Justice Fatima Beevi, opined as follows:



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*“3. Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife.”*

8. Further, a two-Judge Bench of the Hon’ble Supreme Court in ***Kirtikant D. Vadodaria vs. State of Gujarat (1996) 4 SCC 479***, speaking through Justice Faizan Uddin, opined as follows:

*“15... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation.”*

9. There is a general tendency on the part of the wife to amplify her needs and the husband to conceal his actual income, making it difficult to determine the earning capacity of the rival claimants with exactitude. The rival claimants must scrupulously bring on record their actual respective earning capacities in order for the Court to arrive at quantum of maintenance which is just and fair in terms of principle of equistatus. The quantum of maintenance must be justifiable and realistic to provide succour to the dependent spouse and also to avoid occurrence of the two extremes of the maintenance being either paltry or extravagant, ensuring that neither of the two is reduced to a life of penury. The adequacy of the maintenance allowance has to be determined by the yardstick of the dependent spouse being able to lead a life of reasonable comfort.



10. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in ***Rajnesh vs. Neha and another (2021) 2 SCC 324***, speaking through Justice Indu Malhotra, issued the following directions:

***"VI Final Directions***

*130. In view of the foregoing discussion as contained in Part B - 1 to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:*

***(a) Issue of overlapping jurisdiction***

*131. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:*

*(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;*

*(ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;*

*(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding*

***(b) Payment of Interim Maintenance***

*132. The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.*

***(c) Criteria for determining the quantum of maintenance***

*133. For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B III of the judgment.*

*134. The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and*



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*circumstances of a case.*

***(d) Date from which maintenance is to be awarded***

*135. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.*

***(e) Enforcement/Execution of orders of maintenance***

*136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI."*

11. The learned Family Court has clearly and correctly ordered that any other amount awarded as maintenance to be set off against the same granted vide the impugned judgment dated 03.11.2022. Further, the petitioner has about Rs. 19,08,670/- in savings and yielding an interest of about Rs. 1,14,520/- per annum which equals Rs. 9543.35/- per month. Admittedly, the gross salary of the petitioner is Rs. 82,000/- per month. As such, the monthly income of the petitioner amounts to Rs. 91543/-. Pertinently, the Hon'ble Supreme Court in ***Kalyan Dey Chowdhury vs. Rita Dey Chowdhury Nee Nandy AIR 2017 SC 2383*** held that it would be proper to award 25% of the husband's salary as maintenance to the wife. Since 25% of the monthly income of the petitioner would amount to be Rs. 22,885/-, this Court finds it appropriate to reduce the amount of maintenance awarded to the respondents from Rs. 30,000/- to Rs. 23,000/- per month.

12. Accordingly, the present petition is partly allowed and the impugned judgment dated 03.11.2022 is modified in the following terms:

(i) The maintenance awarded to respondent No.1 is reduced from Rs. 20,000/- to Rs. 15,000/- per month.

(ii) The maintenance awarded to respondent No.2 is reduced from Rs. 10,000/- to Rs. 8,000/- per month.



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(iii) The maintenance hence modified shall be payable from the date of filing of the application under Section 125 Cr.P.C. Any excess amount paid by the petitioner shall be adjusted accordingly.

13. Pending miscellaneous application(s), if any, shall also stand disposed of.

*Reserved on : 01.10.2024*  
*Pronounced on : 04.10.2024*  
*manisha*

(HARPREET SINGH BRAR)  
JUDGE

|      |                           |        |
|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |