

**219 IN THE HIGH COURT OF PUNJAB AND HARYANA  
CHANDIGARH**

**CRR(F)-326-2023 (O&M)  
Date of Decision: 09.09.2024**

**SANJEEV KUMARI AND ANOTHER**

**...Petitioners**

**V/S**

**VIKAS CHHOKAR**

**...Respondent**

**CRR(F)-615-2023 (O&M)  
Date of Decision: 09.09.2024**

**VIKAS CHHOKAR**

**...Petitioner**

**V/S**

**SANJEEV KUMARI AND ANOTHER**

**...Respondents**

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

Present: Mr. Ajay Jain, Advocate  
for the petitioners in CRR(F)-326-2023  
for the respondents in CRR(F)-615-2023.  
Vikas Chhokar-respondent in CRR(F)-326-2023  
and petitioner in CRR(F)-615-2023 (present in person).

**\*\*\***

**HARPREET SINGH BRAR J. (Oral)**

1. This order of mine shall dispose of both the above-mentioned revision petitions as they arise from identical factual matrix. However, for the sake of brevity, facts are taken from CRR(F)-326-2023.
2. These revision petitions have been preferred against the impugned judgment dated 19.01.2023 passed by the learned Principal Judge, Family Court, Hisar Camp at Hansi whereby Rs. 10,000/- per month has been awarded to petitioner No. 2 as maintenance under Section 125 of the Cr.P.C., while the claim of petitioner No. 1-wife for the same was denied.
3. Briefly, the facts are that the marriage between petitioner No.1-wife and the respondent-husband was solemnized on 10.12.2010 in accordance



with Hindu rites and rituals, and one daughter i.e. petitioner No. 2 namely Sanvi, was born out of the wedlock. However, marital discord ensued between the couple and the petitioners were shunned out of the matrimonial home of petitioner No.1 on 05.11.2018. Thereafter, the petitioners filed a petition for maintenance under Section 125 Cr.P.C. which was partly allowed and a sum of Rs. 10,000/- per month was awarded to petitioner No. 2-minor daughter and it was concluded that petitioner No.1 is not entitled to any maintenance.

4. Learned counsel for the petitioners, *inter alia*, contends that learned Family Court below has gravely erred in holding that petitioner No. 1-wife is not entitled to any maintenance and a meager amount of Rs. 10,000/- per month has been awarded to petitioner No. 2-minor daughter as maintenance. Learned Family Court has wrongly presumed that petitioner No. 1 had sufficient income to support herself. Moreover, the respondent has specifically admitted during his cross-examination that he lives in a joint family which has about 38 ½ acres of land and various other plots. He further admitted that they have sold 3-4 acres of land after his marriage and that the income of the family is about Rs. 15,00,000/- per year. He further admitted that he will not reside with petitioner No. 1 at any cost. As such, not only petitioner No.1 deserves to be granted maintenance under Section 125 Cr.P.C., the same granted to petitioner No.2 also deserves to be enhanced.

5. *Per contra* learned counsel for the respondent-husband submits that petitioner No. 1-wife has left the company of respondent-husband out of her own free will. Petitioner No.1 wanted to run an NGO that required her to stay out of the house for a few days in the week. Respondent-husband and his family members requested petitioner No. 1-wife to adjust herself to the family

of respondent but she was adamant and openly proclaimed that she will continue to be engaged in her NGO work, even if it requires her to remain outside the house for 2-3 days in a week. Ultimately, in April 2017, petitioner No. 1, after quarreling with the respondent, left her matrimonial home along with petitioner No.2. Moreover, the respondent is currently working as a junior associate with an Advocate and has no source of income. As such, the respondent is not liable to maintain petitioner No.1.

6. I have heard learned counsel for the parties and gone through the case file with their able assistance.

7. The 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.

8. 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:

*“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.”*

9. 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.”*

10. 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.



11. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in ***Rajnish vs. Neha and another*** (2021) 2 SCC 324, issued the following directions:

***"VI Final Directions***

130. *In view of the foregoing discussion as contained in Part B -I 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 circumstances of a case.*



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

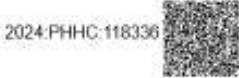
*135. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.*

***(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."*

12. A perusal of the record indicates that the marriage between petitioner No.1 and respondent, as well as the paternity of petitioner No.2 stands admitted. The respondent had annexed certain pictures from the social media account of petitioner No.1 highlighting her lifestyle and social stature. It appears that petitioner No.1 received many awards and cash prizes in view of her work, presumably with her NGO. However, all the said pictures were posted before she was shunned out of her matrimonial home on 05.11.2018. As such, it cannot be conclusively said that she continues to sustain the same lifestyle presently. Furthermore, it appears that petitioner No.1 opened an account at the Allahabad Bank, Hansi on 06.06.2019 and a transfer of Rs. 84,000/- was made from this account on 12.04.2021. However, merely one transaction cannot be the determining factor in ascertaining the financial status of petitioner No.1. Nothing on the record indicates that petitioner No.1 has a source of income that would allow her to sustain herself. As such, the respondent is legally and morally bound to maintain his wife.

13. While the learned Family Court has correctly awarded Rs. 10,000/- per month as maintenance to petitioner No. 2-minor daughter, it erred in denying the same to petitioner No.1. Accordingly, revision petition bearing no.



CRR(F)-326-2023 is allowed and the impugned judgment dated 19.01.2023 is modified in the following terms:

- i. An amount of Rs. 10,000/- per month is awarded to petitioner No.1 as maintenance under Section 125 Cr.P.C., which shall be payable from the date of institution of the petition before the learned Family Court.
- ii. The maintenance of Rs. 10,000/- per month awarded to petitioner No.2 shall remain intact.

14. In view of the discussion above, revision petition bearing no. CRR(F)-615-2023 filed by the husband seeking setting aside of the impugned judgment dated 19.01.2023, is dismissed.

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

09.09.2024  
Ajay Goswami

(HARPREET SINGH BRAR)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No