



CRM-M-17025-2018

1

**253 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH**

**CRM-M-17025-2018
Reserved on: 25.07.2024
Pronounced on: 29.07.2024**

Baljit Kaur

...Petitioner

versus

Pushpinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Ekta Thakur, Advocate
 with Ms. Kanica Sachdeva, Advocate
 and Ms. Amandeep Kaur, Advocate
 for the petitioner.

Mr. A.D.S. Sukhija, Advocate
for the respondent

HARPREET SINGH BRAR J.

1. The present petition has been preferred under Section 482 Cr.P.C. against impugned order dated 23.02.2018 (Annexure P-1) passed by the learned Additional Sessions Judge, Chandigarh whereby the revision petition against order dated 14.08.2017(Annexure P-5) passed by the learned Judicial Magistrate Ist Class, Chandigarh awarding Rs. 11,000/- to the petitioner as maintenance under Section 127 Cr.P.C., has been dismissed.

2. Briefly, the facts are that the marriage between the petitioner and respondent was solemnised on 01.03.1998 in accordance with Sikh rites and rituals. However, marital discord ensued and the petitioner was eventually shunned out of her matrimonial home. Thereafter, she filed for maintenance under Section 125 Cr.P.C. which was allowed and the petitioner was granted Rs. 4,000/- per month as maintenance. The petitioner preferred an application

**CRM-M-17025-2018****2**

under Section 127 Cr.P.C. seeking modification of the same, which was allowed vide order dated 14.08.2017(Annexure P-5) and the maintenance granted was enhanced to Rs. 11,000/- per month. Unsatisfied by the same, the petitioner approached the learned lower Appellate Court, seeking further enhancement. However, the said revision petition was dismissed.

4. Learned counsel for the petitioner, *inter alia*, contended that the respondent-husband is employed as a government teacher and admittedly earns Rs. 49,491/- per month. The maintenance awarded to the petitioner was enhanced by the learned trial Court under Section 127 Cr.P.C. in view of the increase in salary of the respondent since July 2015. The respondent was drawing a salary of Rs. 32,000/- per month previously, however, now that his salary has increased to Rs. 49,491/-, the maintenance awarded to the petitioner deserves to be proportionally enhanced. Moreover, only the income tax is required to be deducted from the salary while arriving at a quantum of maintenance. In the present case, the respondent merely pays Rs. 1,530/- as income tax. As such the respondent has no other liabilities and bears the moral and legal duty to appropriately maintain the petitioner.

5. *Per contra* learned counsel for the respondent submitted that the respondent is already paying a considerable sum of Rs. 11,000/- per month as maintenance from his salary of Rs. 49,491/- per month. The argument qua the increase in the salary of the respondent was made before learned lower Appellate Court and in spite of the same, the revision petition was dismissed vide order dated 23.02.2018 (Annexure P-1).

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the respondent is a government teacher with a salary of Rs. 49,491/- per month. The petitioner was

**CRM-M-17025-2018****3**

initially granted Rs. 4,000/- per month as maintenance under Section 125 Cr.P.C., however, owing to the increase in salary of the respondent, the same was enhanced to Rs. 11,000/- per month, under Section 127 Cr.P.C.

7. 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.

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



CRM-M-17025-2018

4

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 ***Rajnesh 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 - 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



CRM-M-17025-2018

5

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."

**CRM-M-17025-2018****6**

12. A perusal of the order dated 23.02.2018 (Annexure P-1) passed by the learned lower Appellate Court indicates that the enhanced maintenance amount of Rs. 11,000/- per month was correctly ordered to be paid from the date of the application. The current income of the respondent being Rs. 49,491/- per month has been adequately accounted for and a careful and just balance has been drawn, keeping in view the spiralling inflation rates and high cost of living corresponding to the reasonable needs of the petitioner, to arrive at the sum of Rs. 11,000/- per month. Learned counsel for the petitioner has been unable to indicate any perversity in the impugned order which could warrant interference by this Court.

13. Accordingly, the present petition stand dismissed, being bereft of any merit. Pending miscellaneous application(s), if any, shall also stand disposed of.

29.07.2024*Ajay Goswami***(HARPREET SINGH BRAR)
JUDGE**

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