



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-349-2016(O&M)
Reserved on: 31.07.2024
Pronounced on: 06.08.2024

Gurmeet Kaur and another
...Petitioners
versus

Sucha Singh
...Respondent

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tarun Dhingra, Advocate
for the petitioners (through video conferencing).

Mr. Sanjay Jain, Advocate
for the respondent.

HARPREET SINGH BRAR J.

CRM-32048-2016

The present application is preferred seeking condonation of delay of 220 days in filing the present petition.

Learned counsel for the petitioner submits that inadvertently, Section 482 Code of Criminal Procedure, 1973 (Cr.P.C.) has been mentioned instead of Section 5, Limitation Act, 1963.

For the reasons mentioned in the application, the delay of 220 days in filing the present petition is hereby condoned.

CRM-24066-2024

The present petition is preferred under Section 482 Cr.P.C seeking to place on record the birth certificate of Sachkirat Singh (Annexure R-1) and bank account statements of the petitioner (Annexure R-2 to R-5).

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For the reasons mentioned in the application, the same is allowed and the birth certificate of Sachkirat Singh (Annexure R-1) and bank account statements of the petitioner (Annexure R-2 to R-5) are taken on the record.

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1. The present revision petition has been preferred against impugned judgment dated 27.11.2015 passed by the learned Family Court, Ambala whereby the Rs. 2000/- has been awarded to the each of the petitioners, Rs. 1000/- to each, under Section 125 of the Cr.P.C.

2. Briefly, the facts are that the marriage between the petitioner No.1 and the respondent was solemnized on 15.10.2000 in accordance with Sikh rites and rituals, and three daughters were born out of the wedlock. However, marital discord ensued after the birth of their third daughter and the petitioners were shunned out of her matrimonial home on 05.01.2014. Thereafter, she filed for maintenance under Section 125 Cr.P.C. which was allowed and the petitioners were granted an amount of Rs. 1000/- per month as maintenance.

4. Learned counsel for the petitioner, *inter alia*, contended that petitioner No.1 was given merciless beatings on 05.01.2014 and was shunned out of her matrimonial home with petitioner No.2 on the same day. Petitioner No.1 only preferred an application under Section 125 Cr.P.C. when the respondent refused to rehabilitate her. The respondent is an agent for a transport company as well as a property dealer. He earns about Rs. 50,000/- per month and also has many properties and plots. As such, the petitioner granted to the petitioners deserves to be enhanced.

5. *Per contra* learned counsel for the respondent submitted that the respondent has solemnized a second marriage and has two children from that wedlock. He also bears the responsibility of maintaining his old aged parents.



The respondent works as a commission agent and makes Rs. 12,000/- per month.

6. Having heard learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that the marriage between petitioner No.1 and respondent was dissolved by decree of divorce dated 27.08.2013. It appears that petitioner No.1 is employed at Adesh Hospital. A perusal of the bank statements of petitioner No.1 (Annexures R-2 to R-4) indicate that regular monthly payment of an amount Rs. 8000/- was being credited to her account. Moreover, the respondent has already solemnized second marriage and has the responsibility to not only maintain his old age parents but also his three daughters from the first marriage and two children from the second marriage.

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 ***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 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. It is evident that petitioner No.1 is well qualified and is currently employed. The facts of the case would be squarely covered by the judgments rendered by the Hon'ble Supreme Court in ***Bhushan Kumar Meen vs. Mansi***

Meen @ Harpreet Kaur (2010) 15 SCC 372 and Anu Kaul vs. Rajeev Kaul



(2009) 13 SCC 209 and the Division Bench of the Delhi High Court in *X vs. Y* passed in *MAT. APP. (F.C.) 78/2023* decided on 11.10.2023. As such, petitioner No.1 is not entitled to maintenance under Section 125 Cr.P.C. A perusal of the impugned judgment dated 27.11.2015 indicates that the learned Family Court has correctly assessed the income of the respondent at Rs. 12,000/- per month based on the material available on the record. A careful and just balance has been drawn qua petitioner No.2, keeping in view the spiralling inflation rates and the high cost of living corresponding to her reasonable needs.

13. Accordingly, the present petition is disposed of and the impugned judgment dated 27.11.2015 is modified in the following terms:

- i. The maintenance of Rs. 1000/- per month granted to petitioner No.1 is hereby set aside.
- ii. However, the maintenance of Rs. 1000/- per month awarded to petitioner No.2 is enhanced to Rs. 2000/- per month.

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

06.08.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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