

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.Rev.(FC) No.21 of 2026****Date of decision: 24.09.2026**

Priyankar Gupta**.....Petitioner****Versus****Smt. Monika Gupta****.....Respondent**

Coram**The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.****The Hon'ble Mr. Justice Yogesh Jaswal, Judge.*****Whether approved for reporting?¹ Yes***

For the Petitioner : Mr. Manjeet Singh Pasreecha and
Mr. Lokesh Thakur, Advocates vice
Mr. G.R. Palsra, Advocate.

For the Respondent : Mr. Y.P.Sood, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has assailed order dated 19.02.2026, passed by the Court of learned Principal Judge, Family Court, Mandi, District Mandi, H.P. in Case No. 68/2024, titled Monika Gupta versus Priyankar Gupta, in terms whereof, the petition filed by the respondent-wife under Section 125 of Criminal Procedure Code for grant of maintenance has been decided by the learned Court below in the following manner:-

“40. The present petition is allowed. The petitioner is awarded maintenance at the rate of ₹10,000/- (Rupees Ten

¹***Whether the reporters of the local papers may be allowed to see the Judgment?Yes***

Thousand only) per month, payable by the respondent from the date of filing of the petition.

41. It is clarified that any amount of interim maintenance awarded to the petitioner in proceedings under the Protection of Women from Domestic Violence Act, 2005 shall be inclusive of the amount awarded herein. In other words, the total maintenance payable under Section 125 Cr.P.C and the interim maintenance under the D.V. Act, 2005 shall not exceed ₹10,000/- per month, and any amount received or executed under the D.V. Act, 2005 shall be adjusted and deducted from the maintenance granted in the present petition.”

2. Learned counsel for the petitioner argued that the impugned order is perverse and not sustainable in eyes of law. Learned counsel submitted that in light of the fact that it was clearly borne out on record that the wife was earning ₹8,000/- per month and further the income of the present petitioner was only ₹10,000/- per month, which was his salary by serving as a Clerk with his father, the maintenance of ₹10,000/-, as has been awarded by the learned Court below, is on the higher side.

3. Learned counsel also submitted that in light of the fact that the petitioner was looking after the sole son of the petitioner and the respondent, the maintenance granted by the learned Court below is per se excessive and accordingly, he prayed that as the respondent has sufficient means to live, and as further she was getting ₹2,500/- as maintenance under the Domestic Violence Act, the grant of maintenance by the learned Court below be held to be bad and quashed as such.

4. On the other hand, learned counsel for the respondent has submitted that there is neither any perversity nor any illegality in the order under challenge. Learned counsel submitted that the petitioner was the sole son of his parents. He submitted that the father of the petitioner is a businessman, whose yearly transactions run into crores of rupees, which has been admitted by the petitioner himself in his cross-examination before the learned Court below. Learned counsel submitted that the entire evidence was created by the husband just to defeat the cause of the present respondent. He reiterated that the petitioner being the sole son of his parents was looking after the entire business of his father, which business was not only restricted to the State of Himachal Pradesh but was being carried out in the other States also. Learned counsel also submitted that the factum of the respondent-wife earning ₹8,000/- per month as a teacher does not debar her from claiming maintenance under the provisions of the Criminal Procedure Code. He further submitted that the amount which the wife is receiving under the Domestic Violence Act, has been taken care of by the learned Court below and the amount of maintenance of ₹10,000/- per month is inclusive of the said maintenance also.

5. Learned counsel thus submitted that as there is no infirmity in the impugned order and as the amount awarded by the

learned Court below was in a reasonable amount, the order called for no interference.

6. We have heard learned counsel for the parties and have also carefully gone through the order under challenge, as well as the record of the case.

7. In terms of the order under challenge, learned Court below has been pleased to award maintenance in favour of the respondent-wife herein @ ₹10,000/- per month, which is inclusive of the amount of ₹2,500/- which the wife has been held entitled to in the proceedings under the Domestic Violence Act, 2005. Thus, effectively, what has been awarded by the learned Court below in favour of the petitioner as monthly maintenance in the proceedings under Section 125 of the Criminal Procedure Code is ₹7,500/- per month.

8. Be that as it may, the genesis of the arguments of the learned counsel for the petitioner primarily was that the order passed by the learned Court below is bad as the learned Court has erred in not appreciating that with a monthly salary of ₹10,000/- per month, the petitioner cannot pay maintenance to the wife @ ₹10,000/- per month.

9. According to us, this contention of the petitioner as has been raised by the learned counsel cannot be accepted. This is for the reason that it is clearly borne out from the record of the case that

the petitioner belongs to a well-off family. In fact, a perusal of the cross-examination of the petitioner herein, who has deposed before the learned Court below as RW-1 demonstrates that he, inter alia, admitted that his father was running a business and the business premises of his father comprised of a three-storeyed building. He has also admitted in his cross-examination that his father is 75 years old and he is the only son of his parents. Thereafter, though he denied that he was not looking after the business of his father or that they were not in all owning about 10 vehicles and had deployed about 15 to 20 servants, however, he admitted that their business transactions were multi-crore transactions.

10. In fact, a perusal of his cross-examination demonstrates that he did not say in his cross-examination that the business transactions of his father were multi-crore transactions. He stated that "their business transactions were multi-crore transactions." Though subsequently, the petitioner again self-stated that the business was of his father, but we can very safely draw the conclusion that this was just to wriggle out of the admission already made in his cross-examination.

11. Considering this in light of the fact that the petitioner hails from a well-off family, has business which runs into crores of rupees annually, the award of maintenance of ₹10,000/- in all, inclusive of the interim maintenance granted to the respondent

herein under the provisions of the Domestic Violence Act by the learned Court below, cannot be said to be excessive by any means of imagination. Further, the factum of the respondent being employed in a school and earning a meager salary of ₹8,000/- per month, can also not be used as a tool by the petitioner to assail the order passed by the learned Court below for the reason that as observed hereinabove also by us, in our considered view, the compensation awarded by the learned Court below is not an excessive compensation and further the husband otherwise also is both legally and morally bound to maintain his wife and that too in the peculiar facts of this case where this Court can safely conclude that the petitioner belongs to a well-off family.

12. At this stage, we would also like to refer to the findings of the Hon'ble Supreme Court, which have been returned in ***Rajnish versus Neha and Others, 2021 (2) SCC 324***, wherein the Hon'ble Supreme Court has been pleased to hold that subsistence does not mean mere survival and when compensation has to be determined by the Court, what has to be taken into consideration is that, in case the wife is having any income then whether that income is sufficient to enable the wife to maintain herself in accordance with the lifestyle of her husband in the matrimonial home.

13. As we have already observed hereinabove that the petitioner belongs to a business family, which was having multi-crore

transactions annually, we can safely say that even an amount of ₹10,000/- maintenance alongwith an amount of ₹8,000/-, which the wife is earning as salary from her job is not all that much so as to keep pace with the lifestyle of the petitioner but then as there is no challenge to the order passed by the learned Court by the wife, we stop short of making any further observation.

14. In the light of above observations, the petition is dismissed, so also pending miscellaneous application(s), if any.

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15. In light of the fact that the petition filed by the petitioner/ non-applicant has been dismissed by the Court, this application is disposed of by ordering the release of the amount that has been deposited by the petitioner/non-applicant in favour of the applicant in her bank account, details of which are given in paragraph-3 of the application.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

24th September, 2026.
(yogesh)