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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 05.09.2024

1. CRR(F)-6-2021 (O&M)

Ajit Singh

... Petitioner

Vs.

Satwanti and another

... Respondents

2. CRR(F)-215-2021 (O&M)

Satwanti and another

... Petitioners

Vs.

Ajit Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Salil Dev Singh Bali, Advocate
for the petitioner (in CRR(F)-6-2021) and
for the respondent (in CRR(F)-215-2021).

Mr. Rajat Singla, Advocate and
Mr. Rahul Vohra, Advocate for
Mr. Aditya Jain, Advocate
for the petitioners (in CRR(F)-215-2021) and
for the respondents (in CRR(F)-6-2021).



HARPREET SINGH BRAR, J. (ORAL)

1. This common judgment shall dispose of both the aforementioned revision petitions, as they arise out of identical factual matrix. However, for the sake of brevity, the facts are taken from CRR(F)-6-2021.

2. Both these revision petitions are preferred against the judgment dated 03.03.2020 passed by learned Principal Judge, Family Court, Rohtak, vide which petition under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') filed by wife-Satwanti and minor daughter-Khushbhu was allowed and maintenance amount of Rs.9,000/- per month was awarded to be paid to them i.e. *Rs.4,000/- per month to the wife and Rs.5,000/- per month to minor daughter.*

2. The marriage between Ajit Singh, petitioner in CRR(F)-6-2021 and respondent in CRR(F)-215-2021 and Satwanti, petitioner No.1 in CRR(F)-215-2021 and respondent No.1 in CRR(F)-6-2021, was solemnized on 20.12.2003 according to Hindu rites and rituals. The marriage was consummated and a female child, namely Khushbhu, petitioner No.2 in CRR(F)-215-2021 and respondent No.2 in CRR(F)-6-2021, was born. However, matrimonial dispute ensued between the couple and petitioners-Satwanti and Khushbhu filed a petition under Section 125 Cr.P.C. seeking



maintenance. Respondent Ajit Singh filed a reply and contested the claim made by petitioners i.e. wife and minor daughter. Learned Family Court, vide impugned judgment dated 03.03.2020, granted maintenance allowance of Rs.4,000/- per month in favour of wife-Satwanti and Rs.5,000/- per month in favour of minor daughter-Khushbhu. Feeling aggrieved, wife and minor daughter have filed CRR(F)-215-2021 for enhancement of the amount of maintenance, while husband-father has approached this Court for setting aside the impugned judgment, by way of filing CRR(F)-6-2021.

3. Learned counsel for petitioner Ajit Singh, in CRR(F)-6-2021, *inter alia*, contends that learned Family Court fell into grave error, while granting maintenance to respondents i.e. wife and minor daughter. Respondent No.1-wife left the company of the petitioner at her own without any justifiable cause. She is graduate and is working as JBT Teacher and is getting salary of Rs.15,000/- per month. Apart from this, she is also earning Rs.10,000/- per month by giving coaching. As such, she is capable to maintain herself and the minor daughter. It is further contended that apart from present proceedings under Section 125 Cr.P.C., respondent No.1-wife has also filed a complaint under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short 'DV Act') and the same was disposed of by learned Judicial Magistrate 1st Class, Rohtak, vide order dated 04.07.2012 and against the said order, respondent No.1-wife filed an appeal,



in which learned Sessions Judge, Rohtak, vide judgment dated 28.09.2015, granted maintenance to the tune of Rs.2,000/- per month to her. The impugned judgment in the present case has been passed subsequently on 03.03.2020 and as such, the amount of maintenance awarded under the provisions of DV Act was required to be set off/adjusted in the present proceedings under Section 125 Cr.P.C., which are subsequently instituted, in view of the guidelines issued by the Hon'ble Supreme Court in ***Rajnesh Vs. Neha and another, (2021) 2 SCC 324.***

4. Learned counsel for petitioners i.e. wife and minor daughter, in CRR(F)-215-2021, *inter alia*, contends that very meager amount of maintenance has been granted to them, which is not in consonance with actual income of respondent Ajit Singh, as he is a property dealer and is also having sufficient income from agricultural produce, therefore, prays for enhancement of the maintenance amount to some higher amount.

5. I heard learned counsel for the parties and after perusing the record of the case with their able assistance.

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.

6. 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.”

7. 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.”

8. Another objective the legislature has sought to achieve by this provision is to provide maintenance *pendente lite* to the applicant spouse during proceedings emerging out of matrimonial disputes so that she/he can maintain herself/himself, have sufficient funds to pursue the litigation, and not suffer at the instance of the affluent spouse.

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**'s case (*supra*), laid



down the criteria for determining quantum of maintenance and 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 arder 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. A perusal of the record indicates that learned Family Court had granted the maintenance to respondents i.e. wife and minor daughter, without obtaining the affidavits of the parties with regard to their income, assets and liabilities. Though learned Court below has duly considered the material placed before it for determining the quantum of maintenance 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 respondent, however, in view of the directions issued by the Hon'ble



Supreme Court in **Rajnesh**'s case (*supra*), qua successive claims, the maintenance amount of Rs.2,000/- awarded vide judgment dated 28.09.2015, is required to be set off/adjusted against the maintenance amount of Rs.5,000/- awarded vide impugned judgment dated 03.03.2020.

12. Accordingly, both these revision petitions are disposed of and learned Family Court is directed to pass a fresh order, after obtaining the respective affidavits of the parties regarding their income, assets and liabilities and also after setting off/adjusting the successive claims in collateral proceedings instituted for grant of maintenance, strictly keeping in view the guidelines issued by the Hon'ble Apex Court in **Rajnesh**'s case (*supra*).

[HARPREET SINGH BRAR]
JUDGE

05.09.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No