

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

114

CRR(F)-125-2024**Date of Decision:** January 29, 2024**Simran Chahal****.....Petitioner(s)****Vs.****Ms. Yashendra****.....Respondent(s)****CORAM: HON'BLE MS. JUSTICE SUDEEPTI SHARMA**

Present: Mr.Udit Mendiratta, Advocate
for the petitioner(s).

SUDEEPTI SHARMA J. (ORAL)

The petitioner in the present petition has impugned the order dated 24.11.2023 passed by Ld. Principal Judge, Family Court, Panchkula in Case No. MNT125/351/2019, whereby the application of the respondent, under Section 125 Cr.P.C., has been allowed and respondent/wife has been granted maintenance to the tune of Rs.20,000/- per month from the date of filing of the application till the date of the impugned judgment (i.e. from 29.04.2019 till 24.11.2023) and thereafter, Rs.35,000/- per month till the time she gets remarried.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is earning Rs.One lac per month and the maintenance of Rs.20,000/- per month from the date of filing of application (i.e. from 29.04.2019) till the date of judgment i.e. 24.11.2023 and thereafter, at the rate of Rs.35,000/- per month, till the time the respondent gets remarried, is on the higher side.

3. I have heard learned counsel for the petitioner and perused the impugned order dated 24.11.2023.

4. Brief facts of the case are that the marriage between the parties was solemnized on 08.03.2018 at Shri Nabha Sahib Gurudwara, Zirakpur according to Sikh rites and ceremonies but from their wedlock, no child was born. The parents of the respondent had spent an amount of Rs.20 lakhs on the marriage ceremony as per wish of the petitioner and his family members and function was held at Joshi Farms, Zirakpur and sufficient dowry articles were given. After the marriage, the petitioner and respondent started living together at Flat No. 41, GH-29, Mansa Devi Complex, Sector-5, Panchkula alongwith the parents of the petitioner and the petitioner lived in her matrimonial home till 11.06.2018. The respondent is a qualified Dental Surgeon (MDS-Prosthodontics) and wanted to open a clinic of her own and expressed her wish to the petitioner in the very first meeting and they agreed and she started her clinic by the name and style of "DENT AID" in a rented premises in Riverdale Business Centre, Zirakpur on 02.01.2018 with the help of her father. The petitioner and his family did not have any objections to the same even after marriage and also agreed that the petitioner would help the respondent by dropping and picking her up as she is not an expert driver. However, immediately after the marriage, the petitioner and his parents started showing cold behavior towards the respondent and started creating problems for her to attend her clinic and suggested her that she should shift her clinic to a nearby place of their choice. As the respondent had invested a large amount on the infrastructure and equipments of the clinic and also created some goodwill in the area she was deeply stressed and traumatized on being forced to shift and they started humiliating her on

the issue of transportation. The petitioner provided a used Alto car to the petitioner but later took it back without her consent. The petitioner often visited the clinic of the respondent after marriage and started interfering in the day to day working and enquired about the accounts which caused great stress to the respondent. Also, the petitioner shared the details of his married life with his male friends against the wishes of the respondent and it caused embarrassment to her and many times he taunted her in front of them. Even after repeated requests, the petitioner never agreed that the couple should go out alone and always took his male friends along even for a walk. As there were great temperamental differences, the respondent suggested the petitioner that they should spend some time together but instead he made her answer his suggestions/queries on 'Google Sheets' and this childish behaviour again caused great stress and strain to the respondent. The petitioner even shared the said 'Google Sheets' with his friends also. The petitioner then started pressurizing the respondent to start learning 'Information Technology' so that she could work in some IT firm and leave her work as a dentist. Before marriage, parents of the petitioner had given an impression that the petitioner would have no problems being a working woman as they had the facility of maids and cook but after marriage, it came to light that there were no cook or regular maids and the petitioner and his parents taunted the respondent that she did not cook for the family. The respondent was detected with typhoid and was suggested by the doctor to keep a check on the quality of drinking water she was consuming and the respondent noticed that the water filter was not of good quality and she requested the petitioner and his parents to change the same but they suggested her to get water from her parental home on way back from clinic

and the petitioner asked her to stay at her parents place till she recovered. The petitioner and his parents visited the parental home of the respondent on 18.05.2018 and abused and shouted at them and even threatened to talk to the neighbours and defame them and threatened that they would file a divorce petition if the respondent did not listen to them. In order to save her matrimonial life, the respondent returned on 31.05.2018 and told them to get an RO fitted but she continued to suffer and her health deteriorated further and she came to her parental home on 12.06.2018 as she was unwell but on the same night, she fell in the washroom and suffered injuries. The respondent sent a message to the petitioner immediately but he did not respond nor he or his parents visited the petitioner nor helped her which caused great mental agony. The petitioner called the respondent over the phone and told her that his family did not want to have any relationship with her and they wanted to get divorce and told that she had to visit court with him on 06.08.2018. On 06.08.2018, the respondent picked her up and on the way she came to know that he was taking her to lawyer to sign divorce papers but she refused to sign and came back to her parental home. The respondent closed her clinic in the month of August 2018 as she was under extreme stress and strain due to the behaviour of the petitioner and his family. The respondent has no source of income and the petitioner did not provide her any monetary help even for her day to day needs though the respondent lived in a joint family and all the jewellery and other valuable items are in their possession. The respondent was shocked to receive a notice from Derabassi court on 05.03.2019 as the petitioner had filed a petition under Section-9 of Hindu Marriage Act and thereafter the respondent being aggrieved of Domestic Violence, filed a petition under said act in the court at

Panchkula. The petitioner is a man of means and is working in a multinational company and drawing a salary of more than Rs.1 lakh and does not have any other liability except the respondent but he has willfully and deliberately neglected and deserted her and treated her with cruelty and has refused to maintain her. Thus, maintenance at the rate of Rs.50,000/- per month from the date of filing of the petition alongwith litigation expenses in the sum of Rs 30,000/- was sought by the petitioner.

5. Relevant paragraphs of the impugned judgment is reproduced as under:-

“23. As already discussed, the petitioner has stepped into the witness box as PWI and stated in her affidavit Ex. PW1/A that the respondent has earnings in the sum of Rs 1,00,000/- to 1,50,000/- per month and ITR of the respondent proves the same. At the same time, it is worth mentioning here that the respondent in the affidavit relating to income, assets, liabilities and expenditure has mentioned his qualifications as B.E. and is working as Software Engineer in a Multi National Company.

24. In the case of "Vishal Saxena vs Swati Bhatnagar" 2016(2) Recent Criminal Reports 991 (P&H), it is held that it is the obligation of the husband to maintain his wife and he cannot be permitted to plead that he is unable to maintain the wife due to financial constraints as long as he is capable of earning In the said case the husband had not brought on record his income tax returns and had not rebutted the averments with regard to his income and mere denial to earn anything is not a ground to deny maintenance; it is only in case the wife is unable to maintain herself, then maintenance is to be paid by the husband.

25. *It is the contention of the respondent that the petitioner is running her independent clinic and is earning well. However, merely that the petitioner is a dental doctor does not mean that she is earning more than her husband as her ITRs show that her clinic is running in losses. Moreover, she is running the clinic from the premises which is owned by her mother and thus, it is clear that as she has the premises from where she can run her clinic and hence, is trying to keep it going and it is situated near the house where she lives but this is not the ground to deny her maintenance when her husband is earning very well and is even supporting his brother who went abroad long time ago.*

26. *The only thing that has to be looked under a petition under section 125 Cr.PC is if a man is healthy and able bodied, therefore, must be taken to have 'means to support his legally wedded wife. The word 'means' under section 125 CrPC does not signify only visible means, it includes the capacity to earn money. The respondent is an able bodied man and is bound to maintain his wife.*

27. *Section 125 Cr.PC. has been enacted with the object of enabling discarded wife, helpless and deserted children to secure the much needed relief and it serves a special purpose. The object of this provision is not to punish for past, but to prevent future vagrancy. The object is to prevent starvation and not to punish anyone for failure of neglect to maintain others. It is to prevent vagrancy by directing the provisions of lodging, food and clothing to the wife, children or parents. The section provides a speedy remedy and safeguards a deserted wife or child from starvation. This section was intended to provide a cheap and speedy but limited, relief, for deserted wife and neglected children, so that they are not*

left beggared and destitute on the scrap heap of the society and thereby driven to a life of vagrancy, immorality and crime for their subsistence. Accordingly, the respondent is bound to maintain his wife and this issue is decided in favour of the petitioner and against the respondent.

Issue No.2:

28. The onus to prove this issue is on the respondent. However, it is not averred as to why this petition is not maintainable. Moreover, in view of the findings recorded on issue No 1, this petition is very much maintainable on behalf of the petitioner and hence, this issue is decided against the respondent.

Issue No.3 (Relief):

*29. In view of aforesaid discussion, the present petition is **allowed with costs** The respondent is directed to pay **maintenance of Rs.20,000/- per month to the petitioner from the date of the filing of the application (i.e. from 29.04.2019) till the date of this judgement i.e. 24.11.2023 and thereafter, at the rate of Rs.35,000/- per month, till the time she gets remarried. Any amount paid by the respondent in pursuance any other order passed by any court of competent jurisdiction including the order dated 24.11.2023 passed in this case shall be adjustable towards the aforesaid amount.** The respondent is also directed to pay an amount of Rs 20,000/- to the petitioner towards litigation expenses of this case. The petitioner is directed to provide particulars of her bank account to the respondent and he is directed to deposit the maintenance amount in the same. Memo of costs be prepared accordingly. File be consigned to the records.”*

6. A perusal of the impugned order dated 24.11.2023 shows that
there is no infirmity in the same.
7. Hence, the present petition is dismissed.
8. All pending applications, if any, stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

January 29, 2024
sonia arora

Whether speaking/reasoned:	Speaking
Whether reportable:	Yes / No