



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

- 1)

CRR(F)-151-2024 (O&M)
Reserved on: 09.12.2024
Pronounced on: 16.12.2024
- Anu Sharma and others

....Petitioners
- Versus
- Rajvinder Singh Bedi

...Respondent
- 2)

CRR(F)-286-2024 (O&M)
Reserved on: 09.12.2024
Pronounced on: 16.12.2024
- Rajvinder Singh Bedi

....Petitioners
- Versus
- Anu Sharma and others

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anand Kumar Bishnoi, Advocate
for the petitioners in CRR(F)-151-2024
and respondents in CRR(F)-286-2024.

Mr. Anoop Verma, Advocate
for the respondent in CRR(F)-151-2024
and petitioner in CRR(F)-286-2024.

HARPREET SINGH BRAR, J.

1.

This common judgment shall dispose of both the above mentioned petitions as they arise from identical factual matrix. However, for the sake of brevity, the facts are taken from CRR(F)-151-2024.
2.

The present revision petition has been preferred against the impugned judgment dated 16.11.2023 passed by the learned Additional



Principal Judge (Family Court), Gurugram vide which Rs. 7,000/- per month each was granted to petitioners No.2 and 3 as maintenance under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') and claim of petitioner No.1 was rejected.

3. The marriage between the petitioner No.1 and the respondent was solemnised on 28.01.2007 and two children (petitioners No.2 and 3) were born out of this wedlock, who are currently residing with petitioner No.1. However, matrimonial discord ensued between the couple and the petitioners filed a petition for maintenance under Section 125 Cr.P.C. After assessing all the material available on the record, the learned trial Court granted Rs. 7,000/- per month each to petitioners No.2 and 3-the children, while petitioner No.1 was not granted any amount towards maintenance. Aggrieved by the same, the petitioners have moved the revision petition bearing No. CRR(F)-151-2024 seeking enhancement while the respondent has preferred revision bearing No. CRR(F)-286-2024 seeking reduction.

3. Learned counsel for the petitioners, *inter alia*, contended that the respondent was employed as a Pilot with Jet Airways and had himself placed on record his salary slip (Annexure P-3) for the period of 01.01.2019 to 31.01.2019 which reflects his gross income as Rs.9,30,127/- and take home income to be Rs. 4,33,553/-. The learned Court below has erred in granting only Rs. 14,000/- per month to petitioners No.2 and 3 by relying on the affidavit of the respondent, wherein he stated to be earning Rs. 20,000/- per month. The respondent is a highly qualified, trained pilot who is intentionally not joining any other airlines to avoid paying maintenance to the petitioners. He further contended that the house in which the petitioners were residing has been taken over by the bank due to default in repayment of loan. Moreover,



petitioner No.1 is unable to take care of the children and pay for their extra-curricular activities and special therapy on account of her limited means. As such, the maintenance amount of Rs. 14,000/- granted to petitioners No.2 and 3 deserves to be enhanced.

4. *Per contra* learned counsel for the respondent submitted that the respondent was employed as a Pilot with Jet Airways, however, the company was declared insolvent in April, 2019. Consequently, the respondent lost his job and could not be readjusted. In fact, Jet Airways did not disburse salary to its employees for various months even before April, 2019. The former employer of the respondent appeared in the proceedings initiated by petitioner No.1 under the Protection of Women from Domestic Violence Act, 2005 (hereinafter 'DV Act'). However, petitioner No.1 intentionally did not examine him. The respondent could not get a junior level job either, due to age factor. Thereafter, COVID-19 pandemic stuck, which was a big blow to the airline industry, causing them not halt any hiring. Meanwhile, the endorsement of the respondent, necessary for flying aircrafts, expired. Due to paucity of funds, the respondent could not have the same renewed as it requires lakhs of rupees. Further, petitioner No.1 is working as a teacher at the Heritage Xperiential Learning School, Gurugram making income of about Rs. 95,000/- per month. Also, 85% of the school fees of petitioners No.2 and 3 is paid by the employer of petitioner No.1. The respondent is paying more than what he can from his meager salary of Rs. 20,000/-, leaving only Rs.6,000/- monthly for him to maintain himself and his mother. As such, the impugned judgment may be set aside or the quantum of maintenance be reduced.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the learned Court below has



only granted maintenance of Rs. 7,000/- each to the children i.e. petitioners No.2 and 3. It appears that petitioner No.1 is working as a Home Room Teacher in Heritage Xperiential Learning School, Gurugram, and earning about Rs. 95,000/- per month. On the other hand, the respondent claimed he is earning Rs. 20,000/- per month, working as a Manager in Deep Tyres and Treads, Solan.

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. 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.”

Reliance can also be placed on the judgment rendered by the Hon'ble Supreme Court in **Kirtikant D. Vadodaria Vs. State of Gujarat (1996) 4 SCC 479**.

7. 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.

8. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in ***Rajnesh vs. Neha (2021) 2 SCC 324***, speaking through Justice Indu Malhotra, laid down the criteria for determining quantum of maintenance and issued the following directions:

"III Criteria for determining quantum of maintenance

(i) The objective of granting interim/permanent alimony is to ensure that the dependant spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

82. *The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. Refer to ***Jasbir Kaur Sehgal v. District Judge, Dehradun and others (1997) 7 SCC 7***. Refer to ***Vinny Paramvir Parmar v. Paramvir Parmar (2011) 13 SCC 112***.*



83. In *Manish Jain v. Akanksha Jain* (2017) 15 SCC 801, this Court held that the financial position of the parents of the applicant-wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the Court should mould the claim for maintenance based on various factors brought before it.

84. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications. ***Reema Salkan v. Sumer Singh Salkan* (2019) 12 SCC 303.**

(ii) A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. ***Chaturbhuj v. Sita Bai* (2008) 2 SCC 316.**

85. The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.

(iii) Section 23 of HAMA provides statutory guidance with respect to the criteria for determining the quantum of maintenance. Sub-section (2) of Section 23 of HAMA provides the following factors which may be taken into consideration: (i) position and status of the parties, (ii) reasonable wants of the claimant, (iii) if the petitioner/claimant is living separately, the justification for the same, (iv) value of the claimant's property and any income derived from such property, (v) income from claimant's own earning or from any other source.



(iv) Section 20(2) of the D.V. Act provides that the monetary relief granted to the aggrieved woman and/or the children must be adequate, fair, reasonable, and consistent with the standard of living to which the aggrieved woman was accustomed to in her matrimonial home.

(v) The Delhi High Court in **Bharat Hedge v. Smt. Saroj Hegde 40 (2007) DLT 16** laid down the following factors to be considered for determining maintenance:

- “1. Status of the parties.
 2. Reasonable wants of the claimant.
 3. The independent income and property of the claimant.
 4. The number of persons, the non-applicant has to maintain.
 5. The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.
 6. Non-applicant's liabilities, if any.
 7. Provisions for food, clothing, shelter, education, medical attendance and treatment etc. of the applicant.
 8. Payment capacity of the non-applicant.
 9. Some guess work is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.
 10. The non-applicant to defray the cost of litigation.
 11. The amount awarded under section 125 Cr.PC is adjustable against the amount awarded u/s 24 of the Act.”
- (vi) Apart from the aforesaid factors enumerated hereinabove, certain additional factors would also be relevant for determining the quantum of maintenance payable.”

9. It is evident that both petitioner No.1 and the respondent are well qualified and currently employed. Therefore, petitioner No.1 does not merit any maintenance under Section 125 Cr.P.C. in view of 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 v. Y** passed in **MAT. APP. (F.C.) 78/2023** decided on 11.10.2023. As far as the children



(petitioners No.2 and 3) are concerned, admittedly, 85% of the school fee is paid by the employer of petitioner No.1.

10. While the respondent is well qualified, his financial status can be deduced from the fact that he has lost his properties to the bank because of his inability to repay the loans availed by him. However, raising a child in today's economy is an expensive affair and both the parents are required to contribute towards the same. A two Judge bench of the Hon'ble Supreme Court in ***Chandu Sridevi vs. Chandu Sesha Rao*** in Civil Appeal No.1159 of 2023 (Arising out of SLP No.26395 of 2019) decided on 14.02.2023, made the following observations:

*“6. The High Court may be correct in observing that in a case where both the husband and wife are earning, **they have a shared responsibility to maintain the children and provide them best education. However, the amount of maintenance for a child, in this regard, has to be fixed keeping in view ground realities.** It has been noticed by the High Court that the older son is studying in Sri. Chaitanya College, while the younger son is enrolled at Bhashyam School. That being an admitted fact, it can be reasonably inferred that the expenses dedicated to the education and day-to-day maintenance of both the children are much more than Rs. 10,000/- p.m. The appellant - wife is also, thus, contributing substantially for the maintenance and education of the children. **Merely because the appellant - wife has some source of livelihood does not absolve the respondent - husband from his responsibility to maintain and provide a good education for the children...**”*

11. The learned Court below has duly considered the material placed before it for determining the quantum of maintenance. A careful and just balance has been drawn, keeping in view the spiralling inflation rates and the high cost of living corresponding to the reasonable needs of petitioners No.2 and 3. As such, this Court does not find any reason to interfere with the impugned order.

12. Accordingly, the both the abovementioned petitions are dismissed.

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

(HARPREET SINGH BRAR)
JUDGE

16.12.2024
Neha

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