



**222-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR(F)-342-2023 (O&M)
Reserved on: 01.10.2024
Pronounced on: 04.10.2024

SonuPetitioner

Versus

Mausam and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Neeraj Sheoran, Advocate
for Mr. Gagandeep Sanwal, Advocate
for the petitioner.

Mr. Ravinder Malik, Advocate
for the respondents.

HARPREET SINGH BRAR, J.

1. The present revision petition has been preferred against the impugned judgment dated 14.12.2022 passed by the learned Additional Principal District Judge, Family Court, Kharkhoda, Sonipat whereby the respondents have been granted Rs. 15,000/- per month as maintenance under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.').

2. Briefly, the facts as alleged are that the marriage between the petitioner and respondent No.1 was solemnised on 25.11.2016 and out of this wedlock, one son i.e. respondent No.2 was born. Respondent No.1-wife was constantly harassed by the petitioner and his family, who demanded a car or Rs. 5,00,000/- in cash as dowry. The petitioner also physically harassed respondent No.1 under the influence of alcohol. Ultimately, on 26.12.2018, the petitioner gave merciless beatings to the respondents and kicked them out of his home.



3. Learned counsel for the petitioner-husband, *inter alia*, contends that the learned Court below has erred in granting a maintenance of Rs. 15,000/- to the respondents as the petitioner is looking after his old aged parents. The mother of the petitioner is a heart patient and requires regular treatment. Moreover, the petitioner has taken a loan of Rs. 7,00,000/- to meet the requirements of his family and is paying an installment of Rs. 15,000/- per month towards the same. As such, the amount granted by the learned Court below is on the higher side and deserves to be reduced.

4. *Per contra* learned counsel for the respondents submits that the petitioner is a Constable in CRPF and draws a net salary of Rs. 45,000/- while respondent no.1 has no independent source of income to maintain herself and their minor child i.e. respondent No.2. The learned Family Court has rightly granted a sum of Rs. 15,000/- to the respondents as maintenance and warrants no interference by this Court.

5. Having heard learned counsel for the parties and after perusing the record with his able assistance, it transpires that respondent No. 1-wife has been granted a sum of Rs. 10,000/- per month and respondents No. 2 has been granted Rs. 5,000/- each as maintenance under Section 125 Cr.P.C. vide impugned judgment dated 14.12.2022.

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.

7. 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.”

8. 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.”

9. 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.

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***, 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 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. A perusal of the record indicates that the petitioner is working as a Constable in Central Reserved Police Force. The petitioner himself has placed his salary slip for the month of September 2022 on the record which indicates that his gross salary is Rs. 48,4000/- while his net salary is Rs. 43,303/-. His salary slip for the month of August, 2022 reflects Rs. 65,986 as his gross salary while his net salary is stated to be Rs. 61,139/-. Further, this Court in ***Mukesh Kumar vs. Rekha Rani 2018(3) R.C.R.(Crimianl)135*** has categorically held

that a person cannot be allowed to shrug off his liability to make the requisite payment of maintenance in lieu of loans availed by him. As such, only statutory deductions are allowed to be made from the salary of the petitioner and monthly installments qua loan are not to be considered while determining quantum of maintenance. This Court is of the considered view that 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 respondents, to arrive at the said quantum of maintenance. Learned counsel for the petitioner has been unable to indicate any perversity in the impugned judgment which could warrant interference by this Court.

13. Accordingly, the present petition stand dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

04.10.2024
Neha

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