



**229 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR(F)-264-2022
Reserved on: 16.07.2024
Pronounced on: 17.07.2024

Preeti and anotherPetitioners

Versus

Nitesh Kumar ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Naveen Kumar, Advocate
for the petitioners (through V.C.).

None for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred for enhancement against the impugned order dated 22.02.2022 passed by the learned Family Court, Rohtak under Section 125 of the Cr.P.C. vide which the interim maintenance of Rs.25,000/- per month was awarded to petitioner No.2 i.e. minor daughter of petitioner No.1 and respondent. The petitioners are also seeking setting aside of the same order *qua* petitioner No.1 as nothing is awarded to her as maintenance.

2. The marriage between petitioner No.1 and the respondent was solemnised on 12.06.2014 in accordance with Hindu rites and rituals. Out of this wedlock, one female child was born. However, matrimonial dispute ensued between the couple and petitioners filed a petition under Section 125 Cr.P.C. seeking maintenance. The respondent filed a reply and contested the claim made by the petitioners. The learned Family Court vide order dated 22.02.2022 granted interim maintenance allowance of Rs.25,000/- per month in favour of petitioner No.2. Aggrieved by the same, the petitioners has approached this



3. Learned counsel for the petitioners *inter alia* contends that the interim maintenance awarded by the learned Court below is not in consonance with the actual income of the respondent. He further submits that the Court below has fallen into grave error by calculating the expenditure as nothing has been awarded to petitioner No.1 and only a paltry amount of Rs.25,000/- was awarded to petitioner No.2.

4. I have heard learned counsel for the petitioners and perused the record of the case.

5. 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.) v. Veeraswamy (K.) (1991) 2 SCC 375***, speaking through Justice Fatima Beevi, opined that 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.”



A two-Judge Bench of the Hon'ble Supreme Court in ***Kirtikant D. Vadodaria v. 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.”

7. 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 the she/he can maintain herself/himself, have sufficient funds to pursue the litigation, and not suffer at the instance of the affluent spouse.

8. 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



9. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in **Rajnish v. Neha and another (2021) 2 SCC 324**, laid down the criteria for determining quantum of maintenance and issued the following directions:

xxx

xxx

xxx

VI Final Directions

130. In view of the foregoing discussion as contained in Part B -I 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."

10. From the perusal of the material on record, it transpires that there are entries of deposit in the bank account of petitioner No.1 from Little Shree School, Rohtak on 01.06.2021, 18.06.2021, 22.07.2021 and 18.08.2021. Further, there are other numerous entries of deposit and withdrawals in the bank account of petitioner No.1 and the justification given by her qua the same was that she was unaware of the said bank account as it was being operated by her father, thereby, making the entire explanation unpalatable as she is highly educated as she has completed her MBA and Ph.D. Furthermore, petitioner No.1 was unable to place on record any document before the learned Family Court showing that she had executed an authority letter in favour of her father with respect to her bank account. It also transpires that petitioner no.1 tried to conceal material facts qua her income from the learned Court below. Hence, the impugned order is hereby affirmed qua petitioner No.1

11. While awarding interim maintenance to petitioner no.2, the learned Family Court has relied upon the salary slip of the respondent for the month of July, 2021 which is annexed with his affidavit of declaration of assets and liabilities where his gross salary was shown to be Rs.1,35,059/- and after deduction to the extent of Rs.44,388/-, his net salary is Rs.90,671/- per month.

Since, the details of any alleged property of the respondent were not been

given, his monthly income was assessed to be Rs.1,20,671/-. After duly



considering the afore-mentioned facts, it becomes evident that the Court below has duly considered the material placed before it for determining the quantum of interim maintenance. 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 petitioners. Pertinently, at this stage, only interim maintenance has been granted and the parties are yet to prove their respective claims by adducing evidence. Therefore, the order under challenge in the present petition does not warrant any interference by this Court. Accordingly, the present petition is dismissed being bereft of any merit.

11. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

17.07.2024
Neha

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