



CRM-M-22531-2015

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

124

CRM-M-22531-2015

Date of decision: 17.09.2024

Kusum and another

...Petitioners

V/s

Rajesh alias Raju and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. J.S. Saneta, Advocate for the petitioners.

None for the respondents.

SUMEET GOEL, J. (Oral)

1. Present petition has been directed against the order dated 06.05.2015 passed by Additional Sessions Judge, Karnal whereby the appeal filed by the petitioners (herein) against the order dated 21.08.2012 passed by Judicial Magistrate Ist Class, Karnal, awarding maintenance allowance at the rate of Rs.1000/- per month to petitioner No.1-wife and Rs.1000/- per month to petitioner No.2 till she attains the age of majority or gets married to be paid, whichever is earlier; by the respondent-husband (herein) from the date of order, was upheld. The petitioners (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Judicial Magistrate Ist Class, Karnal stating that they are the wife and minor child of the respondent-husband (herein) and are unable to maintain themselves and hence the maintenance ought to be awarded to them.

2. Learned counsel for the petitioner has argued that the order passed by the Court below is patently erroneous as it has failed to consider the relevant evidence on record regarding the respondent-husband actual

**CRM-M-22531-2015****2**

income, which has led to an arbitrary and unfair assessment of the maintenance amount. It has been argued that the impugned order overlooks the additional source of income of the respondent-husband thereby causing a grave miscarriage of justice to the petitioners. Moreover, the maintenance amount so granted is insufficient to meet the basic needs of the petitioners and is not in consonance with the standard of their living. Furthermore, the respondent-husband is a man of means as he owns 13 kanals 09 marlas of land besides 02 shops. It has been further argued that considering the income of the respondent-husband as also the reasonable needs of the petitioners, the maintenance allowance of Rs.2000/- per month is highly inadequate and insufficient. Furthermore, it has been argued that the Additional Sessions Judge overlooked the fact that the cost of living and the financial needs of the petitioners have significantly increased since the order passed by the JMIC, Karnal. It has been further argued that the lower Courts have failed to appreciate the hardship being faced by the petitioners with the meager amount of maintenance granted. According to learned counsel, both the orders suffer from the non-application of mind and hence it has been prayed that the instant petition be accepted and the impugned orders are liable to be set-aside.

3. None has caused appearance on behalf of the respondents despite service.

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



5. It would be apposite to refer herein to a judgment of the Hon’ble Supreme Court in the case titled as **Rajnish vs. Neha & Anr.:** **2021(2) SCC 324**, relevant whereof reads as under:

“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 dependant 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 & Ors. (1997) 7 SCC 7**. Refer to **Vinny Paramvir Parmar v. Paramvir Parmar (2011) 13 SCC 112**.*

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

84. *On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant 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.*

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

86. *In a marriage of long duration, where parties have endured the relationship for several years, it would be a relevant factor to be taken into consideration. On termination of the relationship, if the wife is educated and professionally qualified, but had to give up her employment opportunities to look after the needs of the family being the primary caregiver to the minor children, and the elder members of the family, this factor would be required to be given due importance. This is of particular relevance in contemporary society, given the highly competitive industry standards, the separated wife would be required to undergo fresh training to acquire marketable skills and re-train herself to secure a job in the paid workforce to rehabilitate herself. With advancement of age, it would be difficult for a dependant wife to get an easy entry into the work-force after a break of several years.*

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

(d) Maintenance of minor children

96. *The living expenses of the child would include expenses for food, clothing, residence, medical expenses, education of children. Extra coaching classes or any other vocational training courses to complement the basic education must be factored in, while awarding child support. Albeit, it should be a reasonable amount to be awarded for extra-curricular / coaching classes, and not an overly extravagant amount which may be claimed.*

97. *Education expenses of the children must be normally borne by the father. If the wife is working and earning sufficiently, the expenses may be shared proportionately between the parties.”*

**CRM-M-22531-2015**

5

6. A perusal of the factual matrix of the case in hand reflects that the petitioner-wife (herein) had filed an application against the respondent-husband seeking maintenance allowance before the JMIC, Karnal. On notice, the respondent-husband entered appearance and filed reply to the petition under Section 125 Cr.P.C. denying all the facts raised in the petition and prayed for dismissal thereof. After considering the arguments and evidence advanced by both the parties, JMIC, Karnal vide its order dated 12.03.2014, came to the conclusion that the petitioners were entitled for maintenance and directed the respondent-husband to pay the maintenance allowance of Rs.1000/- per month to petitioner No.1-wife and Rs.1000/- per month to petitioner No.2 (minor daughter) till she attains the age of majority or gets married whichever is earlier. Feeling aggrieved by the quantum of maintenance awarded by the JMIC, Karnal, two separate appeals were preferred before the Additional Sessions Judge, Karnal, i.e. one by the petitioner-wife (herein) seeking enhancement of the maintenance allowance and the second by the respondent-husband seeking setting-aside of the maintenance so granted. Both were clubbed together and were decided vide common order. The Additional Sessions Judge, Karnal, in its detailed order dated 06.05.2015, emphasized that the JMIC, Karnal had appropriately evaluated the facts and circumstances of the case, including the financial conditions of both the parties. It was further observed that the quantum of maintenance granted to the petitioner-wife and minor daughter was reasonable, given the evidence on record. It was further noticed by the Additional Sessions Judge that the claim of the petitioner for enhancement and the respondent-husband plea for setting-aside the maintenance

**CRM-M-22531-2015**

6

allowance lacked sufficient merits to warrant any interference with the findings recorded by JMIC, Karnal. Finding no illegality or infirmity with the order passed by JMIC, Karnal, both the appeals were ordered to be dismissed by Additional Sessions Judge vide its common order dated 06.05.2015 and upheld the order passed by the JMIC, Karnal.

6.1 The petitioner-wife, however, remains dis-satisfied by the order passed by both the Courts below, has preferred the instant petition. However, keeping in view the entirety of facts and circumstance of the case, this Court is of the considered opinion that the order dated 06.05.2015 passed by the Additional Sessions Judge, Karnal, which upheld the order dated 21.08.2012 passed by JMIC, Karnal, directing the respondent-husband to pay maintenance allowance of Rs.1000/- per month to petitioner No.1-wife and Rs.1000/- per month to petitioner No.2 (minor daughter) till she attains the age of majority or gets married, does not call for any modification. Both the Courts below have meticulously examined all the relevant factors, including the financial conditions of the parties as also the costs of living, before arriving at the conclusion. The contentions raised by the learned counsel for the petitioners regarding the inadequacy of maintenance and the respondent-husband financial capacity, have already been addressed appropriately by both the Courts below. In considered opinion of this Court, the order dated 06.05.2015 passed by Additional Sessions Judge, Karnal upholding the order dated 21.08.2012 passed by Judicial Magistrate Ist Class, Karnal, directing the respondent-husband to pay maintenance allowance of Rs.1000/- per month to petitioner No.1-wife



CRM-M-22531-2015

7

and Rs.1000/- per month to petitioner No.2 till she attains the age of majority or gets married, does not warrant any interference by this Court.

7. In view of the above, the present petition is devoid of any merit and the same is hereby dismissed. No order as to costs.

8. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

September 17, 2024
Ajay

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