



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

CRR(F)-523-2023 (O&M)
Date of decision: 15.10.2024

LAKHWINDER SINGH

...PETITIONER

V/S

KIRANJIT KAUR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manmeet Singh Rana, Advocate
for the petitioner.

Mr. Dinesh Nagar, Advocate with
Mr. Sushant Sharma, Advocate for the respondents.

HARPREET SINGH BRAR J. (ORAL)

1. The petitioner is challenging the order dated 28.10.2022 passed by learned Family Court, Hoshiarpur, Camp Court at Garhshankar whereby learned Court below has directed the petitioner-husband to pay maintenance to the tune of Rs. 4,000/- per month to respondent No. 1-wife and Rs. 2500/- per month each to respondents No. 2 and 3 (i.e. son and daughter).

2. The marriage between the petitioner-husband and respondent No. 1-wife was solemnized on 23.02.2013. Two children were born from the said wedlock. However, matrimonial dispute ensued between the couple and respondents filed a petition under Section 125 Cr.P.C. seeking maintenance. Petitioner-husband contested the claim made by respondents and filed reply to the said petition. Learned Family Court, Hoshiarpur, Camp Court at Garhshankar vide impugned order dated 28.10.2022 directed the petitioner-husband to pay maintenance to the tune of Rs. 4,000/- per month to respondent No. 1-wife and Rs. 2500/- per month each to respondents No. 2 and 3 (i.e. son



and daughter). Aggrieved by the same, petitioner-husband has preferred this revision petition.

3. Learned counsel for the petitioner-husband *inter alia* contends that learned Family Court below has fallen into grave error by passing the impugned judgment. In fact a Panchayati compromise/divorce deed was effected between the parties and the same is available on record as Annexure A-2 and perusal of the same indicates that respondent No. 1 has taken 2.5 tolas gold set as well as Rs. 1,00,000/- from the petitioner for her permanent alimony and she has undertaken to withdraw the case seeking maintenance from the petitioner and petitioner is earning only Rs. 3,000/- per month doing labour work and he is not in a position to pay the hefty amount of maintenance as awarded by learned Family Court below.

4. Per contra, learned counsel for respondents opposes the prayer made by learned counsel for the petitioner on the ground that Panchayati Divorce/Compromise has no value in the eyes of law and respondents are having no source of income and they are on the verge of destitution.

5. I have heard learned counsel for the parties and gone through the record with their able assistance.

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.) 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.”

8. 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.



9. 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.

10. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in **Rajnesh v. 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 -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 arder 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."

11. It is trite law that an able-bodied husband is legally and morally bound to maintain his wife. However, if the husband is unemployed or

documentary proof qua his income is not available, it can be reasonably assumed that he can work as a labourer and earn the prevalent minimum wages. Reliance in this regard can be placed on judgments rendered by the Hon’ble Supreme Court in *Bhuwan Mohan Singh vs. Meena* 2014(3) R.C.R(Criminal) 723 and this Court in *Amanjot Singh vs. Rajwant Kaur* 2017(1) R.C.R(Criminal) 1070, *Satish @Bittoo vs. Suresh Devi* 2018(1) Law Herald 595, *Dalip Kumar @ Deepa vs. Sunita and another* 2012(2) R.C.R. (Criminal) 434 and *Sandeep vs. Suman* in CR-1802-2023 decided on 22.03.2023.

12. Having heard learned counsel for the parties and after perusing the record, this Court does not find any merit in the arguments advanced by learned counsel for the petitioner. Perusal of record indicates that learned Family Court below has taken into consideration that even if the petitioner-husband is working as a agricultural labourer, he must be earning Rs. 15,000/- per month. Learned counsel for the petitioner has not been able to indicate any perversity in the impugned order which warrants interference by this Court. Accordingly, this revision petition is hereby dismissed being bereft of any merit.

13. Pending CRM(s), if any, are also disposed of accordingly.

October 15, 2024
Ajay Goswami

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No

(HARPREET SINGH BRAR)
JUDGE