



**CRR(F)-882-2023 (O&M)**  
**Date of decision: 15.10.2024**

**...PETITIONER**

V/S

**...RESPONDENT**

**CRR(F)-884-2023 (O&M)**  
**Date of decision: 15.10.2024**

**...PETITIONER**

V/S

## ...RESPONDENT

Present: Mr. S.K. Tripathi, Advocate  
for the petitioner in CRR(F)-882-2023  
and for the respondent in CRR(F)-884-2023.

Mr. Rajesh Lamba, Advocate  
for the petitioner in CRR(F)-884-2023  
and for the respondent in CRR(F)-882-2023.

\*\*\*\*

**HARPREET SINGH BRAR J. (ORAL)**

1. This order of mine shall dispose of these two revision petitions impugning the same order dated 06.03.2023 passed by learned Principal Judge, Family Court, Faridabad in maintenance petition No. MNT-767-2017, whereby petitioner-wife has been directed to be paid an amount of Rs. 1500/- as maintenance by respondent-husband.
2. For the sake of brevity, facts are borrowed from CRR(F)-882-2023, with the consent of learned counsel(s) for the parties.
3. The marriage between the petitioner-wife and respondent-husband was solemnized on 26.04.2001 according to Hindu rites and ceremonies. Three children were born from the said wedlock. However, matrimonial dispute ensued between the couple and petitioner-wife filed a petition under Section



125 Cr.P.C. seeking maintenance. Respondent-husband contested the claim made by petitioner-wife and filed reply to the said petition. Learned Family Court, Faridabad vide impugned order dated 06.03.2023 awarded maintenance to the tune of Rs. 1500/- per month in favour of petitioner-wife. Aggrieved by the same, both the husband and wife have preferred these revision petitions.

4. Learned counsel for the petitioner-wife *inter alia* contends that the amount of maintenance awarded by learned Family Court below is on the lower side as the learned Family Court has not considered the plea of the petitioner-wife that she is fully dependent upon her brothers for her survival as her father has already died many years back and her brothers are also approximately sixty years of age. Hence, they are also dependent upon their sons. Thus, the maintenance awarded by learned Family Court is liable to be enhanced to the tune of Rs. 15,000/- per month. Moreover, respondent-husband is running the business of travel agency like Taxi Stand at Gurugram and earning Rs. 45,000/- per month.

5. Per contra, learned counsel for the respondent-husband opposes the prayer made by learned counsel for petitioner-wife on the ground that petitioner-wife is practicing as an Advocate and is B.A., M.A., B.Ed. and L.L.B. and no proof of giving cost/maintaining by her brothers has been proved on record. Moreover, petitioner-wife is staying in the house owned by her in-law which has been transferred in the name of children.

6. I have heard the learned counsel for the parties and gone through the case file with their able assistance.

7. 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.

8. 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.”*



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 the 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 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 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. Having heard learned counsel for the parties and perusing the record, it transpires petitioner-wife has admitted her qualifications as BA, MA, B.Ed. and LLB. Therefore, learned Family Court has rightly come to the conclusion that she is earning or is capable of earning to meet her maintenance expenses to a large extent and has rightly assessed the income of respondent-husband to the tune of Rs. 16,000/- per month and it has also come on record that all the three children are being take care of by the father-respondent, who is retired Sub Inspector from Haryana Police. Therefore, learned Family Court has rightly awarded Rs. 1500/- as maintenance to petitioner-wife from the date of filing of the petition under Section 125 Cr.P.C. Learned counsel for the petitioner(s) has not been able to indicate any perversity in the impugned order which warrants interference by this Court. Accordingly, both these revision petitions are hereby dismissed being bereft of any merit.

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

October 15, 2024  
Ajay Goswami

(HARPREET SINGH BRAR)  
JUDGE

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