

**CRR(F)-396-2022 (O&M)****1****213 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****CRR(F)-396-2022 (O&M)  
Date of Decision: 17.09.2024****SANJU RANI AND ANOTHER****...PETITIONERS****V/S****ANIL KUMAR RATHEE****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Pardeep Singh Poonia, Advocate  
for the petitioners.****Mr. Babbar Bhan, Advocate  
for the respondent.****\*\*\*\*****HARPREET SINGH BRAR J. (ORAL)**

1. The present revision petition has been preferred against the impugned order dated 26.02.2020 passed by the learned Additional Principal Judge, Family Court, Jhajjar under Section 125 of the Cr.P.C. vide which maintenance amount of Rs. 20,000/- per month has been awarded in favour of petitioners.

2. Brief facts of the case are that marriage between the petitioner No. 1-wife and respondent-husband was solemnized on 07.03.2011 according to Hindu Rites and Ceremonies. One female child i.e. petitioner No. 2 was born from the wedlock. However, matrimonial dispute ensued between the couple and the petitioners filed a petition under Section 125 Cr.P.C. seeking maintenance. The respondent-husband filed a reply and contested the claim made by the petitioners. The learned Family Court vide impugned order dated 26.02.2020 awarded maintenance of Rs. 20,000/- per month in favour of



petitioners. Aggrieved by the same, petitioners have preferred this revision petition.

3. Learned counsel for the petitioners *inter alia* contends that the petitioners have been awarded a meager amount of Rs. 20,000/- per month as maintenance by learned Family Court, Jhajjar, which is not in consonance with the actual income of respondent-husband, who is working as a Lt. Commander (Helicopter Pilot) in Indian Navy and earning a monthly salary of more than Rs. 1,50,000/-, apart from other facilities being availed from Indian Navy, free of cost and learned Court below has not even considered the fact that petitioner has no other liability. His mother is drawing pension and his brother is Software Engineer earning handsome salary and his sister is already married. Whereas the petitioner No. 1 has no source of income or any other asset and she is solely dependent upon the maintenance from the respondent-husband.

4. Per contra, learned counsel for the respondent-husband opposes the prayer made by the petitioners on the ground that petitioner No. 1 is a highly qualified lady. She is having Post Graduation Degree in Sociology and English along with B.Ed., M.Phil and NET Degrees and she has the potential to earn her livelihood and she has not made any effort to sustain herself or pick up a job and the free of cost facilities which are available to respondent from the Indian Navy are also available to the petitioners and petitioner No.1 has regularly been using the Canteen facility etc.

5. I have heard the learned counsel for the parties and gone through the case file 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 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 that the gross salary of the respondent-husband for the month of May 2018 has been relied upon by learned Family Court and the perusal of the same indicates that the salary of the petitioner was Rs. 1,37,885/- and after adjusting the maintenance of Rs. 17,000/-, the carry home salary of the respondent is Rs. 80,300/-. As such, it clearly brought on record that the carry home salary of respondent is Rs. 97,300/- and he has been saddled to pay additional Rs. 3,000/- under the Protection of Women from Domestic Violence Act, 2005 and in view of the facts and circumstances of the case, the learned Family Court below has set off/adjusted the amount of maintenance awarded to the petitioners in collateral proceedings and made it clear that petitioner is entitled to get only one amount of maintenance, either any of the collateral proceedings, whichever is higher. In view of the ratio of law laid down by Hon'ble Supreme Court in *Kalyan Dey Chowdhary vs. Rita Dey Chowdhary Nee Nandy AIR 2017 SC 2383*, the petitioners are entitled to receive maintenance to the tune of Rs. 24,000/- per month being one fourth of the net salary of the respondent-husband. Therefore, respondent-husband is directed to pay the enhanced amount to the petitioners from the date of filing of the petition. The impugned order passed under Section 125 of Cr.P.C. is modified to this extent only.

13. Present petition is disposed of in aforesaid terms.

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

(HARPREET SINGH BRAR)  
JUDGE

17.09.2024

Ajay Goswami

AJAY GOSWAMI  
2024.09.18 16:01  
I attest to the accuracy and  
authenticity of this order/judgment

(i) Whether speaking/reasoned  
(ii) Whether reportable

Yes/No  
Yes/No