



229 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR(F)-965-2023

Date of decision: 24.09.2024

NAVJOT KAUR AND ANOTHER

...PETITIONERS

V/S

HARPREET SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Simranjeet Singh Sarwara, Advocate
for the petitioners.

Mr. Amit Puri, Advocate
for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred against judgment dated 03.04.2023 passed by learned Family Court, Rajura, District Patiala under Section 125 of the Cr.P.C., vide which, maintenance of Rs.9,000/- per month was awarded to the petitioners (Rs.4,000/- per month to petitioner No.1-wife and Rs.5,000/- per month to petitioner No.2-son) of the respondent.

2. The marriage between petitioner No.1 and respondent was solemnised on 30.11.2015 at Rajpura in accordance with Sikh rites and ceremonies. Out of this wedlock, one male 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 03.04.2023 granted maintenance allowance of ₹9,000/- per month in favour of the petitioners. Aggrieved by the same, the petitioners have approached this Court by filing the present petition.



3. Learned counsel for the petitioners *inter alia* contends that learned Family Court has awarded a very meagre amount of maintenance i.e. Rs.4,000/- in favour of petitioner No.1 and Rs.5,000/- in favour of petitioner No.2, which is not in consonance with the actual income of the respondent. Learned counsel further submits that the income-tax return of the respondent were duly proved on record as Ex.PW3/A of three years and according to his income-tax return, the learned Court below has assessed his income as Rs.50,000/- per month, however, only an amount of Rs.9,000/- per month has been awarded to the petitioners. He further submits that the maintenance is only awarded from the date of order, which is against the settled law.

4. Per contra, learned counsel for the respondent submits that the respondent is jobless and is earning his livelihood by imparting tuitions and he has old aged parents to maintain as well. Further, petitioner No.1 along with the minor child has left the company of the respondent without any justifiable cause and the respondent has instituted a petition under Section 9 of Hindu Marriage Act, 1955 seeking restitution of conjugal rights, in which, the concerned Court has passed a decree in favour of the respondent.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that the maintenance has been awarded to the petitioners only from the date of order, which is against the guidelines issued by the Apex Court in ***Rajnish v. Neha and another (2021) 2 SCC 324***. Further, the income-tax return of the years 2018-19, 2019-20 and 2020-21 indicate that the respondent is earning more than Rs.50,000/- per month and only an amount of Rs.9,000/- has been awarded in favour of the petitioners.



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 falls 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. 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.

9. 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*** (*supra*), 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 -1 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. It is evident that the learned Court below has passed the impugned order in a perfunctory manner, without appreciating the facts of the case. The maintenance awarded is not in consonance with the income of the respondent



and the learned Court below has failed to consider the ratio of law laid down in *Rajnesh (supra)* and the fact that petitioners have no independent source of income.

11. Accordingly, the present petition stands disposed of and the impugned order is modified to the extent that amount of Rs.5,000/- per month awarded to the petitioner No.1 as maintenance is enhanced to Rs.7,000/- per month and amount of Rs.4,000/- per month awarded to the petitioner No.2 as maintenance is enhanced to Rs.8,000/- per month, to be paid from the date of filing of petition under Section 125 Cr.P.C.

September 24, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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