

**CRR(F)-974-2024****1****121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR(F)-974-2024****Date of decision: 31.07.2024****Mandeep Singh****...Petitioner****Versus****Kiranjit Kaur Kauchhur @ Kiran Kauchhur and another****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Govind Chauhan, Advocate for
for the petitioner***********HARPREET SINGH BRAR, J. (ORAL)**

1. The present revision petition has been preferred against the impugned order dated 15.07.2024, passed by the learned Principal Judge, Family Court, Panchkula whereby two-third salary of the petitioner has been attached under Section 60 of the Code of Civil Procedure (hereinafter referred to as 'CPC' for the sake of brevity) in order to recover the maintenance amount which has fallen in arrears.

2. The marriage between the petitioner and respondent No.1 was solemnized on 05.04.2015. One daughter i.e. respondent No.2 was born out of the wedlock on 21.01.2016. Soon thereafter, matrimonial dispute ensued between the couple and the respondents filed a petition under Section 125 Cr.P.C. seeking maintenance for herself and her minor child. During the said proceedings, the respondents filed an application seeking interim maintenance which was allowed vide order dated 04.06.2022. Resultantly, the petitioner was directed to pay Rs. 20,000/- per month to respondent No.1-wife and Rs. 15,000/- to respondent No.2-minor daughter as interim maintenance from the date of the filing of the application. Subsequently, upon non-payment of the

interim maintenance amount, the respondents preferred an execution application for the

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recovery of the amount of arrears of interim maintenance. In the execution proceedings, it was observed that the petitioner has paid an amount of Rs. 8,70,000/- till 01.07.2024 out of the total arrears amounting to Rs. 17,85,000/- and an amount of Rs. 10,95,000/- was due. Correspondingly, the learned Family Court directed a deduction to the extent of two-third of the salary of the petitioner, under Section 60 of CPC, which is to be directly deposited in the bank account of respondent No.1 till the satisfaction of the arrears of maintenance vide impugned order dated 15.07.2024.

3. Learned counsel for the petitioner contends that the impugned order dated 15.07.2024 is liable to be set aside since as per the provisions of Section 60 of CPC only one-third deduction is permissible in the case of maintenance. The learned Court below has clearly misread the said section and therefore the impugned order is illegal. Additionally, it is submitted that respondent No.1-wife is an experienced advocate and is currently earning approximately Rs. 67,000/- per month. Respondent No.1 concealed the said fact before the learned Family Court and filed an affidavit dated 26.05.2023, wherein her income is stated to be Rs. 8,000/- to Rs. 10,000/- per month. Moreover, she conceded to visiting the United States of America twice in her cross-examination, which further proves the lofty lifestyle she leads.

4. I have heard learned counsel for the petitioner and carefully perused the record with his able assistance. 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



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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.

5. 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.”

6. 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.

7. In the present case the learned Family Court ordered the attachment of the salary of the petitioner by taking recourse to Section 60 CPC. The Hon'ble Supreme Court in ***Rajnesh vs. Neha and another 2021(2) SCC 324***, speaking through Justice Indu Malhotra, made the following observations:

“(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., 1973 as 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 21

Clearly thus, the learned Court below could have ordered attachment of salary by resorting to Section 60 for the purposes of the recovery of the amount of maintenance which has fallen in arrears.

8. At this juncture and for proper adjudication of the present case, it is pertinent to refer to the relevant provisions under Section 60, C.P.C., which is extracted below:

Section 60: Property liable to attachment and sale in execution of decree.

(1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable,



belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be liable to such attachment or sale, namely:

- (a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;*
- (b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;*
- (c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist or a labourer of a domestic servant and occupied by him ;*
- (d) books of account ;*
- (e) a mere right to sue for damages ;*
- (f) any right of personal service ;*
- (g) stipends and gratuities allowed to pensioners of the Government or of a local authority or of any other employer, or payable out of any service family pension fund notified in the Official Gazette by the Central Government or the State Government in this behalf, and political pensions;*
- (h) the wages of labourers and domestic servants, whether payable in money or in kind;*
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- (i) salary to the extent of the first one thousand rupees and two third of the remainder in execution of any decree other than a decree for maintenance:*

Provided that where any part of such portion of the salary as is liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months, and, where such attachment has been made in execution of one and



the same decree, shall, after the attachment has continued for a total period of twenty-four months, be finally exempt from attachment in execution of that deeree.

(ia) one-third of the salary in execution of any decree for maintenance ;

9. A perusal of the above mentioned provision clearly elucidates that certain properties are liable to attachment and sale in execution of a decree, including the salary of the judgment-debtor. However, a proviso has been added by the legislature whereby certain properties have not been held to be liable to such attachment or sale, including one-third of the salary in execution of any decree for maintenance. In other words, the entire salary of the judgment-debtor barring one-third amount can be attached for the purpose of the recovery of the amount of maintenance which has fallen in arrears. This provision is further bolstered by this Court’s Rules and Orders, more specifically Chapter 12, Part H of Volume I as per which, in execution of decrees for maintenance, only one third of the salary would be exempt from attachment irrespective of the amount of the salary. As such, leaned counsel for the petitioner has been unable to indicate any perversity in the impugned order that warrants interference by this Court.
10. Accordingly, the present petition is dismissed being bereft of any merits. Pending miscellaneous application(s) if any, shall also stand disposed of.

31.07.2024

Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No