

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

**CRM-M-40729-2022 (O&M)
Date of decision: 15.05.2024**

DALJIT SINGH

...PETITIONER

V/S

MANDEEP KAUR AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

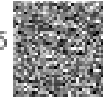
Present: Mr. Amandeep Singh Manaise., Advocate
 for the petitioner.

 Mr. Abdul Aziz, Advocate
 for the respondents.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been preferred against the impugned order dated 21.07.2022 (Annexure P-5) passed by learned Additional Sessions Judge, Sangrur, vide which the maintenance allowance awarded by the learned trial Court has been enhanced to the tune of Rs. 10,000/- per month each in favour of both the respondents i.e. wife and minor son of petitioner and respondent No. 1.

2. The marriage between the petitioner and respondent No. 1 was solemnized on 07.07.2011 in accordance with Sikh rites and rituals. Out of this wedlock, two male child i.e. Prabhjeet Singh and respondent No. 2-Jaskaran Pal Singh were born. However, matrimonial dispute ensued between the couple and the respondents filed a petition under Section 125 Cr.P.C. seeking maintenance of Rs. 40,000/- per month. Learned trial Court vide order dated 13.08.2019 awarded maintenance to the tune of Rs. 5,000/- per month in favour of respondent No. 1 and Rs. 8,000/- in favour of respondent No. 2.



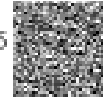
Respondents preferred appeal against the order of learned trial Court and learned Additional Sessions Judge, Sangrur vide impugned order dated 21.07.2022 (Annexure P-5) enhanced the maintenance allowance awarded by the trial Court to the tune of Rs. 10,000/- per month each to both the respondents. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

3. On 17.07.2023, learned counsel for the petitioner had sought an adjournment to verify the arrears of maintenance allowance to the tune of Rs. 11,00,000/- as claimed by the respondents, for which an execution petition was filed. Learned counsel for the petitioner submits that, today also, petitioner is not in a position to calculate the exact amount of pending arrears of the maintenance allowance.

4. In view of the above, this Court is left with no other option, but to decide the present case on its own merits.

5. Learned counsel for petitioner *inter alia* contends that learned lower Appellate Court has gravely erred in enhancing the maintenance allowance awarded by the trial Court to the tune of Rs. 10,000/- per month each to both the respondents. Learned counsel further contends that petitioner himself remains ill and is under treatment. Besides he is looking after his old aged mother and first son Prabhjeet Singh as well and since respondent No. 1 has willfully deserted from the society of the petitioner, she was not entitled for getting any maintenance from the petitioner.

6. Per contra, learned counsel for the respondents has vehemently opposed the prayer made by the learned counsel for the petitioner and submits



that learned lower Appellate Court below, has rightly enhanced the maintenance allowance after taking into consideration the annual income of the petitioner.

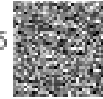
7. I have heard the learned counsel for the parties and gone through the record with their able assistance.

8. 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.

9. 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:



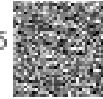
“15. ... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who 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.”

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:

"III Criteria for determining quantum of maintenance

(i) The objective of granting interim/permanent alimony is to ensure that the dependant spouse is not reduced to destitution or



vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

82. *The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun and others (1997) 7 SCC 7. Refer to Vinny Paramvir Parmar v. Paramvir Parmar (2011) 13 SCC 112.*

83. *In Manish Jain v. Akanksha Jain (2017) 15 SCC 801 this Court held that the financial position of the parents of the applicant-wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the Court should mould the claim for maintenance based on various factors brought before it.*

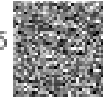
84. *On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications. Reema Salkan v. Sumer Singh Salkan (2019) 12 SCC 303.*

(ii) A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. Chaturbhuj v. Sita Bai (2008) 2 SCC 316.

85. *The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with*



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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.

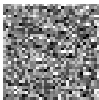
134. The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.

(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."



12. A perusal of the impugned order passed by the learned Additional Sessions Judge, Sangrur makes it evident that the Court below has duly considered the material placed before it while enhancing the maintenance allowance awarded to the respondents. Learned lower Appellate Court has rightly concluded that respondent No. 1 was given maltreatment in the matrimonial home and ultimately she was turned out of the same and petitioner is the owner of 65 bighas of agricultural land at village Manmajra and earning handsome income of about Rs. 6,00,000-Rs. 7,00,000/- per annum from the said agricultural land. In view thereof, learned lower Appellate Court has rightly enhanced the maintenance allowance to the tune of Rs. 10,000/- per month each towards the respondents. Learned counsel for the petitioner has not been able to indicate any perversity in the impugned order which warrants interference by this Court. Accordingly, the present petition is dismissed being bereft of any merit.

May 15, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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