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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-1339-2022 (O&M)
Date of decision: 18.09.2024

Amrik Singh

... Petitioner

Vs.

Amandeep Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajiv Joshi, Advocate
for the petitioner.

Mr. Vishal Sharma, Advocate
for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned order dated 04.11.2022 passed by learned Principal Judge, Family Court, Hoshiarpur, under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), vide which maintenance allowance of Rs.20,000/- per month was awarded to be paid to the respondent.
2. The marriage between the petitioner and the respondent was solemnized on 16.07.2008 according to Hindu rites and rituals. Out of this wedlock, three children were born and they are residing with the petitioner.



However, matrimonial dispute ensued between the couple and the respondent filed a petition under Section 125 Cr.P.C. seeking maintenance of Rs.20,000/- per month. The petitioner filed a reply and contested the claim made by the respondent. Learned Family Court, vide order dated 04.11.2022, granted maintenance allowance of Rs.20,000/- per month in favour of the respondent. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

3. Learned counsel for the petitioner, *inter alia*, contends that the respondent left the company of the petitioner without any justifiable cause. The petitioner filed a petition under Section 9 of Hindu Marriage Act, 1955 (for short 'HM Act') seeking restitution of conjugal rights and the respondent filed a petition under Section 125 Cr.P.C. However, with the intervention of the respectables, the matter was compromised and the parties lived together, but the respondent again left the matrimonial home on 16.03.2015 leaving the minor children with the petitioner and she lodged an FIR No.21 dated 13.03.2016 under Sections 498-A & 406 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Mahilpur, in which the petitioner stands acquitted. Thereafter, the parties again compromised the matter and they cohabited together from August, 2020 to 2021. The respondent was having malafide intentions to implicate the petitioner in yet another case and she tried to commit suicide. In this way, the respondent tortured the petitioner and having left with no other option, he filed a petition



under Section 13 of HM Act seeking dissolution of marriage between the parties.

4. Learned counsel for the petitioner further contends that maintenance amount of Rs.20,000/- granted to the respondent by learned Family Court is on higher side. Three minor children are living with the petitioner and he is bearing all of their expenses. The respondent is graduate and is doing the work of boutique/beautician and is earning handsome income to maintain herself. It is also contended that in view of the guidelines issued by the Hon'ble Supreme Court in ***Rajnish Vs. Neha and another, (2021) 2 SCC 324***, the respondent did not file her affidavit declaring her assets, income and liabilities before learned Family Court. As such, the impugned order suffers from illegality and the same is liable to be set aside.

5. Learned counsel for the respondent submits that learned Family Court, on appreciation of the evidence led by the parties, has passed a well reasoned order, as such, the present petition deserves to be dismissed.

6. I heard learned counsel for the parties and perused the record of the case 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



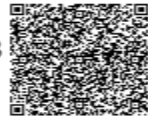
maintenance proceedings, while being alive to the legislative intent behind the provision under Section 125 Cr.P.C in its true spirit, which is to provide speedy assistance and social justice to women, children and infirm parents. The provisions of Section 125 Cr.P.C. were enacted as a measure to further 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.) Vs. Veeraswamy (K.) (1991) 2 SCC 375***, speaking through Justice Fatima Beevi, opined 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.”

9. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Kirtikant D. Vadodaria Vs. 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. 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 she/he can maintain herself/himself, have sufficient funds to pursue the litigation, and not suffer at the instance of the affluent spouse.

11. 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.

12. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in ***Rajnesh***'s case (*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."

13. A perusal of the impugned order passed by learned Family Court makes it evident that the learned Family Court granted maintenance to the respondent without obtaining her affidavit regarding her assets, income and liabilities, as per the directions issued by the Hon'ble Supreme Court in ***Rajnish***'s case (*supra*).

14. Accordingly, present petition is disposed of and the matter is remanded back to learned Court below with the direction to pass a fresh order strictly keeping in view the guidelines issued by the Hon'ble Apex Court in ***Rajnish***'s case (*supra*), after obtaining the affidavit of the respondent regarding her assets, income and liabilities.

[HARPREET SINGH BRAR]
JUDGE

18.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No