



CRR(F)-1855-2023

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

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CRR(F)-1855-2023 (O&M)

Date of decision: August 20, 2024

Karandeep Singh Kukkal

....Petitioner

Versus

Sunnia and another

.....Respondents

CRR(F)-309-2024

Sunnia Bedi and another

....Petitioners

Versus

Karandeep Singh Kukkal

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present:- Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. Anutej Singh Barnala, Advocate for the respondents.

HARPREET SINGH BRAR, J.

1. By way of the present order two revision petitions bearing **CRR(F)-1855-2023** (Karandeep Singh Kukkal Vs. Sunnia and another) **and** **CRR(F)-309-2024** (Sunnia Bedi and another vs. Karandeep Singh Kukkal) shall be decided. For the sake of convenience, facts are being taken from **CRR(F)-1855-2023** (Karandeep Singh Kukkal Vs. Sunnia and another).

2. The petitioner is challenging the order dated 14.11.2023 passed by Family Court, SAS Nagar, whereby he has been directed to make payment of maintenance amount of Rs. 30,000/- per month (Rs. 20,000/- per month to



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respondent No. 1-wife and Rs. 10,000/- per month to respondent No. 2-minor son) in favour of respondents.

2. The marriage between the petitioner-husband and respondent No.1-wife was solemnized on 22.08.2020 as per Sikh rites and ceremonies. One child i.e. respondent No. 2 was born from the said wedlock. However, matrimonial dispute ensued between the couple and the respondents filed a petition under Section 125 Cr.P.C. seeking maintenance. The petitioner-husband filed a reply and contested the claim made by the respondents. The learned Family Court, SAS Nagar vide impugned order dated 14.11.2023 granted maintenance Rs. 30,000/- per month (Rs. 20,000/- per month to respondent No. 1-wife and Rs. 10,000/- per month to respondent No. 2-minor son) in favour of respondents. Aggrieved by the same, petitioner-husband has preferred this revision petition.

3. Learned counsel for the petitioner inter alia contends that learned Family Court, SAS Nagar vide order dated 14.11.2023 has fell into grave error by assuming the income of the petitioner on the basis of some guess work. There is no material available on record to indicate that the petitioner is earning the income as assessed by the family Court while awarding the interim maintenance. Learned counsel for the petitioner has further relied upon Annexure P-4 i.e the affidavit declaring his assets and liabilities and submits that in the affidavit he has clearly declared that he does not own any moveable or immoveable property and his monthly income is only Rs.15,000 to Rs.18,000/- per month. He has further submitted that the petitioner is only working as a site manager looking after the construction activity of his

employer.

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4. On the other hand, learned counsel for the respondents submits that petitioner has concealed material information from the Family Court as well as from this Court. He has placed on record the petition filed by the petitioner under Section 9 of the Hindu Marriage Act bearing HMA No.320 of 2021 and submits that in para no.2 of the petition, it has been mentioned that a car was gifted to the respondent no.1 on the marriage and further he owns two more cars i.e Innova and XUV 300. It was further pleaded therein that he has one full time cook and two part time servants working at his home. Learned counsel for the respondents has further referred to para 6 of the aforementioned petition, wherein he has relied upon the bank statement of the petitioner (Annexure R-3) in which the credit entry indicates that lacs of rupees have been received in the account of the petitioner on various dates on more than one occasion i.e Rs. 13,00,000/- and Rs.10,00,000/- and Rs.19,00,000/- .

5. I have heard learned counsel for the parties and perused 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



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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 of the legislature sought to be achieved 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



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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-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



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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.



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(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'

11. Having heard learned counsel for the parties and after perusing the record, this Court finds no force in the arguments advanced by learned counsel for the petitioner. The learned Family Court below has rightly assessed the income of the petitioner and awarded a maintenance of Rs.20000/- per month to respondent no.1 and Rs.10000 per month to respondent no.2. Learned counsel for the petitioner has not been able to indicate any perversity in the impugned order which warrants interference by this Court. Accordingly, both the revision petitions are hereby dismissed being bereft of any merit.

Copy of this order be placed on the file of the connected case.

(HARPREET SINGH BRAR)
JUDGE

August 20, 2024

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Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No