



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

234

CRR(F)-66-2022(O&M)

Date of Decision: 08.05.2025

Tarsem Singh

...Petitioner(s)

Versus

Harwinder Kaur @ Harbans Kaur

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. P.K.S. Phoolka, Advocate for the petitioner.

Mr. Davinder Singh Khurana, Advocate for
Mr. Munish Raj Chaudhary, Advocate for the respondent.

KIRTI SINGH, J. (Oral)

1. The present petition has been preferred against order dated 17.12.2021 passed by learned Additional Principal Judge, Family Court, Bathinda, in the proceedings under Section 125 of the Cr.P.C., whereby interim maintenance of Rs.3500/- per month was awarded in favour of the respondent.

2. Learned counsel for the petitioner submits that the marriage between the father of the petitioner and the respondent was solemnised around 22 years ago. However, the respondent left the company of his father, and after he passed away, moved an application under Section 125 Cr.P.C. for seeking maintenance. The petitioner filed a reply and contested the claim made by the respondent. The learned Court below vide order dated 17.12.2021 granted interim maintenance of Rs.3500/- 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 abandoned him in the care and custody of his father who unfortunately passed away on 22.06.2012, without any sufficient or justifiable cause. The deceased father of the petitioner had, during his life time, voluntarily and with sound mind executed a legal and valid Will dated 17.06.2011 in favour of the petitioner, bequeathing his entire moveable and immovable properties to him. Further, the respondent is an able bodied person who is capable of earning her livelihood by means of knitting, stitching and sewing etc. Hence, the respondent cannot claim maintenance in view of Section 125 Cr.P.C.

4. Per contra, learned counsel for the respondent submits that the respondent was the legally wedded wife of the father of the petitioner, after whose unfortunate death the suit property was to be inherited in equal share on the basis of natural succession. However, a Will was allegedly executed in favour of the petitioner, and the same is illegal, null and void, being a forged and fabricated one. Moreover, the petitioner is an able bodied person cultivating 20 acres of land and also earning income from cattle, a combination of earnings from which totals to Rs.60,000/- per month whereas the respondent has no source of income.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court finds no force in the arguments advanced by learned counsel for the petitioner.

6. The object and purpose behind granting interim maintenance is to ensure that the dependent spouse and children are 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.

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.”

8. 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.”

9. Another objective the legislature has sought to achieve by this provision is to provide interim 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.

10. The rival claimants must scrupulously bring on record their actual respective earning capacities in order for the Court to arrive at quantum of interim maintenance which is just and fair in terms of principle of equistatus. The quantum of interim maintenance must be justifiable and realistic to provide succour to the dependent spouse and also to avoid occurrence of the two extremes of the interim maintenance being either paltry or extravagant, ensuring that neither of the two is reduced to a life of penury. The adequacy of the interim maintenance allowance has to be determined by the yardstick of the dependent spouse and children 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:

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 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 Family Court makes it evident that the Court below has duly considered the material placed before it at the time of deciding the application for interim maintenance. While there is no evidence on record to show that the respondent has any independent source of income, Learned Court duly observed that whereas the petitioner herein is the owner of 10 acres of inherited land, from which his approximate earnings were assessed to be between Rs.25,000/- to 30,000/- per month. Therefore, keeping in mind the socio economic status of the parties, learned Family Court arrived at the quantum of maintenance so fixed. 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.

13. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned Court below is directed to proceed with the trial on its own merits, strictly in accordance with law.

14. Pending miscellaneous application(s), if any, also stand(s) disposed of.

08.05.2025
Kapil

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No