



235

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

CRR(F)-69-2022

Date of decision: 21.05.2025

MUKARRAM ALIAS RINKU

...Petitioner(s)

VERSUS

CHANDNI

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Ms. Meghna Nehra, Advocate for
Mr. Keshav Pratap Singh, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present revision petition has been filed for setting aside the judgment dated 29.11.2021 passed by the learned Additional Principal Judge, Family Court, Faridabad, vide which maintenance under Section 125 Cr.P.C. has been granted to the respondent-wife to the tune of Rs.10,000/- per month.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the marriage between the petitioner and respondent took place on 02.02.2015 and no child was born out of the said wedlock. She further submitted that the petitioner was earlier married and is having two children out of the wedlock, who are residing with the petitioner but from the wedlock with the present respondent, no child was born. She further submitted that the aforesaid amount of maintenance of Rs.10,000/- per month which has been fixed was based upon some presumption which was made by the learned



Additional Principal Judge, Family Court, Faridabad that the petitioner was earning an amount of Rs.30,000/- per month, whereas it was the case of the petitioner-husband that his income is only Rs.13,000/- to Rs.14,000/- per month, which he is earning by doing a job in the fields of his uncle and out of the aforesaid amount of Rs.13,000/- to Rs.14,000/-, an amount of Rs.10,000/- as maintenance has been directed to be paid to the respondent-wife. She further submitted that so far as the income of the respondent-wife is concerned, she is earning income from tailoring business but the same could not be proved on record by any evidence and because of this reason, the aforesaid amount of Rs.10,000/- per month has been fixed as maintenance, which is even otherwise also on the higher side. She also submitted that the petitioner is also having other liabilities with regard to children from his earlier marriage and his parents as well and out of the aforesaid amount of Rs.13,000/- to Rs.14,000/- which he is earning per month, he is not able to pay the aforesaid amount of maintenance of Rs.10,000/- per month to the respondent-wife and therefore, the aforesaid impugned judgment may be set aside.

3. I have heard the learned counsel for the petitioner.

4. It is a case where the petitioner-husband has filed the present revision petition challenging the judgment dated 29.11.2021 passed by the learned Additional Principal Judge, Family Court, Faridabad, whereby maintenance has been granted to the respondent-wife as aforesaid. In the present case, notice of motion was issued by this Court on 08.02.2022 and it was directed that in the meantime, the payment of maintenance beyond Rs.8500/- per month shall remain stayed and thereafter, the respondent-wife



although being served did not put in an appearance. So far as the relationship between the petitioner-husband and the respondent-wife is concerned, the same is not in dispute and they are legally married. It is also an admitted fact that no child was born out of the said wedlock. A perusal of the aforesaid impugned judgment would show that so far as the petitioner is concerned, he has so stated that his income is only Rs.13,000/- to Rs.14,000/- per month as he is doing job in the fields of his uncle but it was the case of the respondent-wife before the learned Additional Principal Judge, Family Court, Faridabad that the petitioner and his family possess agricultural land and his father owns land regarding which sale deeds pertaining to various sale and purchase transactions were also produced before the learned Additional Principal Judge, Family Court, Faridabad. However, so far as the petitioner is concerned, he admitted his income to be Rs.13,000/- to Rs.14,000/- per month but the learned Additional Principal Judge, Family Court, Faridabad has considered the income of the petitioner to be Rs.30,000/- per month on the ground that the petitioner-husband is an able-bodied man and assuming that he was capable of earning minimum wages of Rs.400/- to Rs.500/- per day, his monthly income was considered as Rs.14,000/- to Rs.15,000/- per month and apart from the above, since his father was having land, it was also assumed that he would also be getting financial help from his father and in this way, the income of the petitioner was presumed to be Rs.30,000/- per month. So far as the income of the respondent-wife is concerned, the petitioner could not prove anything to show that the respondent-wife is having any source of income, although he had alleged that she is earning income from tailoring business and therefore, there was nothing on the record to



show that the respondent-wife was working anywhere or was having any source of income.

5. The amount of maintenance fixed for the respondent-wife is Rs.10,000/- per month and the aforesaid impugned judgment has been passed by the learned Additional Principal Judge, Family Court, Faridabad in the year 2021. So far as the grant of maintenance to the respondent-wife is concerned, this Court is of the view that considering the fact that the petitioner-husband was working and having source of income and the respondent-wife was not working, the petitioner-husband was bound to maintain his wife not only as his legal and statutory obligation but also moral, economic and social obligation. However, so far as the aforesaid quantum of maintenance is concerned, the same has been fixed to be Rs.10,000/- per month. Therefore, this Court would consider as to whether an amount of maintenance of Rs.10,000/- per month for a lady living alone and without any source of income is on the higher side or not. On the one hand, the aforesaid amount of maintenance of Rs.10,000/- per month for a lady who is living separately from her husband is to be seen and on the other hand, the income shown by the petitioner-husband is to be seen. The law regarding as to how to arrive at a balance in such like situation has been well considered by Hon'ble Supreme Court in **Anju Garg versus Deepak Kumar Garg, (2022) SCC Online SC 1314**. It was held by Hon'ble Supreme Court that if a husband is an able-bodied man and he is not earning or is earning very less, then he should do more work including work of labour so as to earn sufficient income and thereafter maintain the claimants, who are entitled under the law. The relevant portion of the aforesaid judgment



of Hon'ble Supreme Court in Anju Garg's case (Supra) is reproduced as under:-

“10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In Chaturbhuj vs. Sita Bai (2008) 2 SCC 316, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.”

6. In the present case, the respondent-wife is having no source of income at all and she is living separately. The marriage between the petitioner and respondent is not in dispute. An amount of Rs.10,000/- per month has been fixed as maintenance for the respondent-wife. The petitioner-husband has shown his income to be Rs.13,000/- to Rs.14,000/- per month which he earns by doing a job in the fields of his uncle. Therefore, in light of the aforesaid



judgment of Hon'ble Supreme Court in Anju Garg's case (Supra), the petitioner-husband being an able-bodied man should work more and earn more and thereafter, maintain his wife to which he is legally and socially responsible. The presumption which has been drawn by the learned Additional Principal Judge, Family Court, Faridabad for fixation of the income of the petitioner-husband is based upon the aforesaid rationale and also in the spirit of the law laid down by the Hon'ble Supreme Court in Anju Garg's case (Supra). For a wife who is not working and is living alone, an amount of Rs.10,000/- per month as maintenance cannot by any stretch of imagination be said to be on the higher side considering the price index, inflationary tendencies and the cost of living. A husband cannot escape from the liability to maintain his wife and to give a reasonable quantum of maintenance only on the ground that his income is less, subject to the condition that the maintenance which is granted to the wife is reasonable. If the maintenance granted to the wife is unreasonable and on the higher side, then the aforesaid defence can be raised by the husband in this regard. However, in the facts and circumstances of the present case, the quantum of maintenance as fixed for the respondent-wife is only Rs.10,000/- per month, which cannot be said to be on the higher side at all and therefore, even if the petitioner has admitted before the learned Additional Principal Judge, Family Court, Faridabad that his income is Rs.13,000/- to Rs.14,000/- per month, this Court is of the considered view that the learned Additional Principal Judge, Family Court, Faridabad has rightly presumed the income of the petitioner-husband to be Rs.30,000/- per month for the purpose of ascertaining the quantum of maintenance.



7. The present is a Revision Petition filed by the petitioner-husband regarding which the scope is very limited. The facts and circumstances of the present case suggest that there is no illegality or perversity in the aforesaid impugned judgment dated 29.11.2021 passed by the learned Additional Principal Judge, Family Court, Faridabad.

8. Consequently, finding no merit in the present petition, the same is hereby dismissed.

9. Interim order dated 08.02.2022 passed in the present case stands vacated since the main case has been dismissed.

21.05.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No