



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CRR(F)-111-2025(O&M)
Date of Decision: 24.01.2025

Rakesh
Versus
Neeru and another
...Petitioner(s)
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH
Present:- Mr. Vikas Gulia, Advocate for the petitioner.

KIRTI SINGH, J. (Oral)

CRM-2790-2025

This application under Section 5 of the Limitation Act, 1963 has been filed for condonation of delay of 54 days in filing the present revision petition.

In view of the averments made in the application, the application is allowed. The delay of 54 days in filing the present revision petition is condoned.

CRR(F)-111-2025

1. The present revision petition has been preferred against the impugned judgment dated 28.08.2024 passed by learned Family Court, Sonipat, vide which the application filed under Section 127 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [now Section 146 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')] was allowed *ex-parte* and maintenance amount was enhanced from Rs.6000/- per month (Rs.3000/- per month to each respondent) awarded in favour of the respondents to Rs.25,000/- per month i.e. Rs.10,000/- per month to



respondent No.1 and Rs.15,000/- per month to respondent No.2.

2. Learned Family Court, vide judgment dated 10.11.2012, granted maintenance allowance of Rs.6000/- per month in favour of the respondents. Thereafter, the respondents filed an application under Section 127 of Cr.P.C. (now Section 146 of BNSS) seeking enhancement of the amount of maintenance and learned Family Court, vide impugned judgment dated 28.08.2024, enhanced the amount of maintenance from Rs.6,000/- per month to Rs.25,000/- per month in favour of the respondents (Rs.10,000/- per month to respondent No.1 and Rs.15,000/- per month to respondent No.2. 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 respondent No.1 left the company of the petitioner without justifiable cause. It is further contended that learned Family Court, proceeded against the petitioner *ex-parte* and without appreciating the material brought on record, enhanced the maintenance amount of Rs.6,000/- per month to Rs.25,000/- per month, which is not in consonance with actual income of the petitioner.

4. Learned counsel for the petitioner *inter alia* contends that the learned Family Court only relied upon the change in the rate of inflation and did not consider any material substantial change in the income of the petitioner.

5. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, this Court finds no force in the arguments advanced by learned counsel for the petitioner. The present petition is decided *in limine* in order to save litigation cost of the respondent and also to save the judicial time of the Court.



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. (now Section 144 of BNSS) 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. (now Section 144 of BNSS) 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. 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 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."

8. 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. There has been a change in the occupation of the petitioner who was working as a casual labourer when order dated 10.11.2012 and now owns and run a furniture shop which comes under the phrase ‘change in circumstances’ mentioned in provisions of Section 127 Cr.P.C. Earlier the maintenance had been granted when the petitioner was working as a labourer, however, now the petitioner is running a furniture shop. It can be safely presumed that the income of the petitioner had considerably enhanced as compared to his income in the year 2012. 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.

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

24.01.2025
Kapil

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No