



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

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*CRR(F)-275-2023(O&M)***Date of Decision: 23.09.2025****JAMIL AHMED**

...Petitioner(s)

Versus

KHURSHIDAN AND OTHERS

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Dr. Pankaj Nanhera, Advocate
for the petitioner.

Mr. Arjun Attri, Advocate for respondents.

KIRTI SINGH, J. (Oral)

1. The present petition has been preferred against the order dated 07.12.2022 passed by the learned Principal Judge, Family Court, Nuh, Camp Court at Ferozpur Jhirka, in MNT No.239-2019 under Section 125 Cr.P.C., whereby the petition filed by the respondents has been allowed and the petitioner has been directed to pay a total maintenance allowance of Rs.12,000/- per month from the date of filing of the petition.

2. The brief facts of the case are that the marriage between the petitioner and respondent No.1 was solemnized about 26 years ago according to Muslim rites and ceremonies and five children were born from the said wedlock. Out of them, two children are married, while three are still minors. About five years prior to the filing of the petition under Section 125 Cr.P.C., the petitioner solemnized a second marriage. Thereafter, matrimonial disputes ensued between the couple, and an application was moved by the respondents under Section 125 Cr.P.C. for seeking



maintenance. The petitioner filed a reply and contested the claim made by the respondent. The learned Family Court vide impugned order granted maintenance to the tune of Rs. 12,000/- per month in favour of the respondents (i.e. Rs.9,000/- per month to respondent No.1 and Rs.3,000/- per month to respondent No.3). Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

3. Learned counsel for the petitioner contends that learned Family Court, Nuh, has allowed the maintenance to the respondents on a very higher side. The said order has been passed by overlooking the financial capacity of the petitioner and the fact that he has been maintaining his children from both marriages. It is contended that the marriage between the parties was dissolved on 13.03.2012, and respondent No.1 was paid a one-time settlement of Rs.13 lakhs. Even his ancestral home was given to respondent No.1 by the petitioner to reside in. Further, respondent No.1 also got re-married to one Munsharif on 11.01.2018, a fact which was deliberately concealed while filing the petition, and which is substantiated by the depositions of RW-2 and RW-3 as well as the duly executed *Nikahnama* dated 11.01.2018. Despite this, the learned Family Court directed the petitioner to pay maintenance of Rs. 12,000/- per month, ignoring the petitioner's financial capacity, his obligations towards aged parents, and the fact that he is already maintaining his children from both marriages. It is further submitted that respondent No.1 is working, the children are earning, and all their expenses, including educational costs, have been borne by the petitioner. In fact a petition under Domestic Violence Act was also filed by respondent No.1 and that was dismissed by the Court of learned JMIC, Faridabad on 07.06.2018. Thus, in view of these submissions, the respondents are not entitled for any further maintenance amount from the petitioner.



4. Learned counsel for respondent No.1 contends that no valid divorce has ever been proved by the petitioner. No *talaqnama* was ever communicated to the respondent No.1, nor was any settlement or *mehr* amount paid in lieu of such alleged divorce. Even assuming, for the sake of argument, that the respondent No.1 was divorced, the law is well-settled that a divorced Muslim woman is entitled to maintenance under Section 125 Cr.P.C. until her remarriage, as held in *Shabana Bano vs. Imran Khan* (2010) 1 SCC 666. The allegation of remarriage with one Munsharif, who is her *dewar*, is false, outrageous, and unsupported by reliable evidence, as no valid *nikahnama* or competent witness has been proved on record. In fact, the testimony of the said Munsharif was also discredited by the learned Family Court. He further submits that respondent No.1 has no independent source of income and is residing along with her children, whereas the petitioner is a government employee with sufficient means.

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 maintenance is to ensure that the dependent spouse and children are not reduced to destitution or vagrancy on account of failure of marriage or any other unfortunate circumstance. 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. 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 and children 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 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."*

11. 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 maintenance. It was recorded in the order that petitioner is serving as a government employee with sufficient means to maintain his wife and children. Further, the plea of the purported divorce, and the alleged subsequent remarriage of respondent No.1 with Munsharif, who is none other than the real brother of the petitioner, which fact was concealed by the petitioner was held as not being substantiated by any reliable evidence for which a detailed and cogent reasoning was put forth by the learned Family Court. It was also rightly observed that even assuming for the sake of arguments that the petitioner had divorced respondent No.1, she would still be entitled to maintenance under Section 125 Cr.P.C. until her remarriage, which has not been established on record. Even the contention of the petitioner that respondent No.1 is employed and maintaining herself remained unsubstantiated. It was



only thereafter that the said quantum of maintenance was justly fixed, keeping in mind the socio-economic status of parties. 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.

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

23.09.2025
Kavita

(KIRTI SINGH)
JUDGE

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