

2025:PHHC:057724



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

Sr. No.215**CRR(F)-180-2019 (O&M)****Date of decision : 02.05.2025**

Ranjit Singh

..... Petitioner

VERSUS

Shagun and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Munish Thakur, Advocate, for the petitioner
Through video conferencing.

Mr. S.K. Choudhary, Advocate, for the respondents.

KIRTI SINGH, J. (Oral)

1. The present revision petition has been preferred against order dated 14.02.2019 passed by learned Family Court, Pathankot, in the proceedings under Section 125 of the Cr.P.C., whereby interim maintenance of Rs.5,000/- per month each was awarded in favour of the respondents.

2. Brief facts of the case are that the marriage between the petitioner and the mother of the respondents was solemnised on 13.09.1992. Out of the wedlock, respondent No.1 was born on 24.03.2000 and respondent No.2 on 21.01.2003. A matrimonial dispute ensued between the couple, whereafter an application for maintenance was filed under Section 125 Cr.P.C. on behalf of the respondents. The learned Court below vide order dated 14.02.2019 granted interim maintenance of Rs.5,000/- per month each in favour of the respondents. 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 wife of the petitioner had left his company without any justifiable cause. It is

2025:PHHC:057724



submitted that on a previous occasion as well, an application for maintenance under Section 125 Cr.P.C. had been filed on behalf of the respondents and their mother i.e. wife of the petitioner. The said petition was decided on the basis of the compromise that had been arrived at between the parties, whereby it was agreed that the husband would pay Rs.7,000/- to his wife for her exclusive personal expenses and also that he would take care of all expenses of the children. He submits that in compliance of the same, the petitioner has since been religiously paying the amount of Rs.7,000/- as maintenance. However, this fact of a previous application under Section 125 Cr.P.C. having been already decided, was overlooked by the learned Family Court while passing the impugned order in favour of the respondents.

4. *Per contra*, learned counsel for the respondents has opposed the present petition and has submitted that the learned Family Court, Pathankot has right passed the order granted interim maintenance of Rs.5,000/- per month each in favour of the respondents. He submits that the previous petition under Section 125 Cr.P.C. was not adjudicated on merits, but was decided on the basis of the compromise effected between the petitioner and his wife. The petitioner, however, did not comply with the terms of the said compromise and did not even allow the respondents and their mother to join his society at his duty place. All these facts were duly brought to the notice of the learned Family Court in the second application filed for maintenance under Section 125 Cr.P.C. It is further averred that the respondent is having moveable and immovable property, and is also employed in a Government job from which he draws a salary of Rs.52,000/- per month.

5. Heard the rival submissions made by the learned counsel for the parties and perused the record.

2025:PHHC:057724



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

2025:PHHC:057724



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:

2025:PHHC:057724

***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.

2025:PHHC:057724



(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."

12. A perusal of the order dated 06.05.2016 makes it evident that the same was not decided on merits but was disposed of in terms of the compromise arrived at between the contesting parties in the first application for maintenance filed under Section 125 Cr.P.C. It is the contention of the respondents that the petitioner did not comply with the terms of the said order, constraining them to file another application under the said provisions for maintenance. The second application moved for maintenance under

2025:PHHC:057724



Section 125 Cr.P.C, dated 27.11.2018 annexed as Annexure P4 showcases that the factum of the previous application was also brought to the notice of the learned Family Court. Further, a bare reading of the impugned order dated 14.02.2019 passed by the learned Family Court, Pathankot 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. The Court has observed that the petitioner admitted that he is doing Government service and therefore, his income was assessed to be not less than Rs.40,000/- per month. In view of the same and considering the fact that the petitioner had not complied with the terms and conditions stipulated in the order dated 06.05.2016, the learned Family Court granted interim maintenance @ Rs.5,000/- to the respondents, who are the children of the petitioner. Learned counsel for the petitioner has not been able to indicate any perversity in the impugned order which warrants interference by this Court. Moreso, it is only interim maintenance which has been decided at this stage. All the pleas of the contesting parties would be considered at the time of deciding the application for final maintenance. Accordingly, the present petition is dismissed being bereft of any merit.

13. The interim direction/relief granted by this Court vide order dated 20.05.2019 stands vacated and the learned Family Court is encouraged to decide the application of the respondents herein expeditiously and in accordance with law.

14. 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.

2025:PHHC:057724



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

(KIRTI SINGH)
JUDGE

02.05.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No