



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

1

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

203

1.

CRR(F)-707-2024(O&M)

Reserved on: 15.05.2025

Pronounced on: 29.05.2025

Sachin Arora

...Appellant(s)

Versus

Kavita Arora and others

...Respondent(s)

2.

CRR(F)-1085-2024 (O&M)

Kavita Arora and others

...Appellant(s)

Versus

Sachin Arora

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:-. Mr. Ritesh Tomar, Advocate for the petitioner in
CRR(F)-107-2024 and for respondent(s) in
CRR-1085-2024.

Mr. Sanjay Verma, Advocate for the respondents
in CRR(F)-707-2024 and for the petitioner(s)
in CRR(F)-1085-2024.

KIRTI SINGH, J.

This common judgment shall decide the aforementioned revision petition, as they stem from the same impugned order dated 20.12.2023. For the sake of brevity the facts are being extracted from CRR(F)-707-2024.

2. The present petition has been preferred against order dated 20.12.2023 passed by learned Principal Judge, Family Court, Gurugram, under Section 125 of the Cr.P.C., whereby final maintenance of Rs.50,000/- per month was awarded in favour of the respondents.



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

2

3. The brief facts of the case are that the marriage between the petitioner and respondent No.1 was solemnised on 28.11.2005 according to Hindu rites and ceremonies. A matrimonial dispute ensued between the couple, whereafter the respondents filed a petition under Section 125 Cr.P.C. for seeking maintenance. The petitioner filed a reply and contested the claim made by the respondents. The learned Family Court vide order dated 20.12.2023 granted maintenance of Rs.50,000/- per month in favour of the respondents (Rs.20,000 to respondent No.1 and Rs.15,000/- each to respondents No.2 and 3). Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

4. Learned counsel for the petitioner submits that respondent No.1-wife had left the society of the petitioner without any reasonable cause and thereafter filed an application for seeking maintenance from the petitioner, despite being extremely well qualified herself. In fact, prior to their marriage and even some time after, respondent No.1 was admittedly working with GE IBM, SBI on a salary of Rs.12,421/- per month. It is further submitted that respondent No.1 is now practising as an Advocate in District Court Gurugram and is also looking after the work of her father who is also a seasoned Advocate, and is therefore earning handsomely. On the other hand, at the time of filing the maintenance application the petitioner was earning a salary of Rs.61,000/- per month, which too kept varying depending upon the deductions made by his employer. Further it is submitted that the income of the petitioner from his new job was wrongly evaluated to be Rs.1,26,734/- p.m. at the time of passing of the impugned order without taking into consideration the statutory deductions like income tax and other deductions like payment towards provident fund and EMI etc.



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

3

Further, the fact that the petitioner had purchased a flat in the joint ownership of himself and respondent No.1 and has been single handedly paying monthly instalments to the tune of Rs.26,056/- per month, which he had to get reduced to Rs.17,169/- per month since it was getting hard for the petitioner to continue paying such a hefty sum.

5. *Per contra*, learned counsel for the respondent whilst refuting the aforesaid contentions submits that the petitioner had subjected respondent No.1 to grave domestic abuse, for which a complaint was given in the Women Cell and even an FIR was lodged against him on 07.02.2019. Presently, respondent No.1 is residing with her parents along with her minor children (respondents No.2 and 3 herein) and is not have any independent source of income to maintain themselves. Respondent No.1 is also not in the pink of her health and has been undergoing treatment for some issues with her spinal cord. On the other hand, the petitioner who is a software engineer with a degree in B.Sc (Hons) Physics and a post graduate diploma in computer application, had worked with companies such as IBM, Gurugram, Stefanini Group Private Limited and is presently working in HCL Tech, CMC limited, Noida. It is submitted that on leaving the IBM, Gurugram, the petitioner has received full and final salary of Rs.2,05,536/-, and had also received Rs.2.2 lacs as gratuity, Rs.15.8 lacs as provident fund and another sum of Rs.5.5 lacs from Girnar Soft Automobiles. Thereafter, the petitioner started working with Stefanini Group at a gross salary of Rs.1,57,067/- per month. It is further submitted that the expenses declared by the petitioner in his affidavit of assets and liabilities were exaggerated and the payment of monthly instalments cannot be considered under the head 'statutory



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

4

deductions'. Further, petitioner being a corporate employee gets various benefits such as annual bonus, performance bonus, festival bonus etc. which are not a part of his affidavit of assets and liabilities. The petitioner also does not have any dependents, since his mother is residing with his younger brother. Qua the employment status of respondent No.1, learned counsel submits that she earlier used to work and was getting salary of Rs.12,000/- per month. However, she left the job in 2011 and is not working since she had given birth to child and she wanted to fulfill her matrimonial obligations including maintaining the house, husband and nurturing her children.

6. I have given thoughtful consideration to the submissions made by learned counsel for the parties and meticulously perused the record.

7. 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. 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.

8. A three-Judge Bench of the Hon'ble Supreme Court in ***Vimala***



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

5

(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.”

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. A gainful reference can also be made to the judgment of ***“Shailja v. Khobbana”, (2018) 12 SCC 199***, wherein the Hon'ble Supreme Court distinguished between "capable earning" and "actual earning". It was held that merely because the wife is capable of earning was held not to be a sufficient reason to reduce the maintenance awarded by the Family Court.

11. Following this dictum of law, the Delhi High Court in ***“Sh. Arun Vats vs. Ms. Pallavi Sharma and anr.” CRL.REV.P. 751/2018***, dismissed the revision petition challenging the order granting interim maintenance of Rs. 33,005/- to the wife, a professional and duly enrolled advocate though claimed to be not working, and minor child. Similar had been the decision of this Court in *Chanchal Mehta vs. Supriya Mehta*, Crl.



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

6

Revision No. 365 of 2016.

12. A gainful reference can also be made to the judgment of the Hon'ble Apex Court in "***Chaturbhuj v. Sita Bai***", 2008(1) RCR (Criminal) 163 wherein it was held that :-

"8. It can also be not said that the wife has been capable of earning but she was not making an effort to earn. Whether the deserted wife was unable to maintain herself, has to be decided on the basis of the material placed on record. Where the personal income of the wife is insufficient she can claim maintenance under Section 125 Criminal Procedure Code. The test is whether the wife is in a position to maintain herself in the way she was used to in the place of her husband. In ***Bhagwan v. Kamla Devi***, (AIR 1975 SC 83) it was observed that the wife should be in a position to maintain standard of living which is neither luxurious nor penurious but what is consistent with status of a family. The expression "unable to maintain herself" does not mean that the wife must be absolutely destitute before she can apply for maintenance under Section 125 Criminal Procedure Code."

13. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in ***Rajnish 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



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

7

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



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

8

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."

14. A perusal of the impugned order passed by the learned Family Court makes it evident that the court has duly considered the material placed before it at the time of deciding the application for maintenance. As per copy of the Bank account statement of the petitioner/husband he was earning a salary of Rs.60,000/- per month in 2020, which got raised to a net salary of Rs.1,26,734/- as is evident from his salary slip that was placed on record before the learned Family Court. It was also observed that admittedly the petitioner/husband was working in IBM Company Gurugram and received a sum of Rs.2,05,537/- as full and final salary from there, whereafter he shifted to Stefanini Group Private Limited. Further, the various amounts received in the form of gratuity and provident fund by the petitioner/husband were also noted down. Qua respondent No.1/wife it was recorded by the learned Family Court that though she was admittedly having a degree in law, but no evidence was advanced by the husband to substantiate his claim that the wife was indeed practicing as an Advocate. Even the minor children are in her care and custody, who she has to look after. It was thereafter, keeping in mind the socio-economic status of the parties, the learned Family Court had awarded a sum of Rs.12,000/- per month each to the respondents from the date of filing of the petition till February, 2023, which was then directed to be increased to Rs.20,000/- per month to respondent No.1 and Rs.15,000/- each to respondents No.2 and 3 in view of the enhanced salary of the



CRR(F)-707-2024(O&M)

CRR(F)-1085-2024(O&M)

petitioner/husband. Learned counsel on either side have not been able to indicate any perversity in the impugned order which would warrant interference by this Court. Accordingly, the petitions are dismissed being bereft of any merit.

15. Pending miscellaneous application(s), if any, also stand(s) disposed of.
16. A photocopy of this order be placed on the file of another connected case.

29.05.2025
Kapil

(KIRTI SINGH)
JUDGE

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