

**CRR(F)-534-2025 (O&M)****-1-**

114

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***********CRR(F)-534-2025 (O&M)
Date of Decision: 09.04.2025**

Davender Kumar

..... Petitioner

Versus

Sushila and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURIPresent: Mr. Sagar Doon, Advocate
for the petitioner.**********JASGURPREET SINGH PURI, J. (ORAL)**

1. The present revision petition has been filed by the petitioner/husband against his wife i.e. respondent No.1 and two minor children i.e. respondents No.2, who is the minor son of the age of 11 years and respondent No.3, who is the minor daughter of the age of 7 years and as per the Memo of Parties, the aforesaid respondents No.2 & 3 have been impleaded through their mother, who is the wife of the petitioner. The impugned order has been passed whereby an interim maintenance of total amount of ₹9,000/- per month i.e. ₹4,000/- per month for respondent No.1/wife and ₹2,500/- per month each has been granted for minor children by learned Principal Judge, Family Court, Bhiwani towards interim maintenance.

2. Learned counsel for the petitioner submitted that although the petitioner and the respondents are living in the same house but the matrimonial dispute has still arisen between them and the respondents have filed a petition for grant of maintenance under Section 125 Cr.P.C. in which

**CRR(F)-534-2025 (O&M)****-2-**

an application for grant of interim maintenance was also filed which has been decided by way of impugned order dated 21.01.2025. He further submitted that as per the affidavit of the petitioner pertaining to declaration of assets and liabilities, he is doing a part-time job in Meteorological Department and his monthly income is ₹7,500/- and as per the affidavit filed by respondent No.1/wife, she does not have any source of income. He submitted that since they are all living in one house, they do not require any maintenance and the petitioner is also taking care of his children. He also submitted that as per the affidavit of the petitioner filed before learned Family Court, his monthly income is ₹7,500/- whereas the total maintenance awarded to them is ₹9,000/- per month which exceeds the income of the petitioner and therefore, the impugned order is liable to be set aside.

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

4. The present is a criminal revision petition by which an order passed by learned Family Court, Bhiwani has been challenged whereby interim maintenance to the tune of ₹9,000/- per month in total i.e. ₹4,000/- per month for respondent No.1/wife and ₹2,500/- each for both minor children has been awarded. Respondent No.2 is the minor son of the age of 11 years and respondent No.3 is the minor daughter of the age of 7 years and therefore, both of them are school going children.

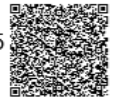
5. As per the affidavit filed by respondent No.1/wife as so stated in the impugned order, she has got no source of income and as per the affidavit filed by the petitioner, his income is ₹7,500/- per month. It is the case of learned counsel for the petitioner that the interim maintenance which has been granted to the respondents is more than the income of the petitioner. However, as per the impugned order, although in the affidavit the

**CRR(F)-534-2025 (O&M)****-3-**

petitioner has so stated that his income is ₹7,500/- per month but it was alleged by the respondent No.1/wife in the application under Section 125 Cr.P.C. that the petitioner is doing a job of Clerk-cum-Temperature Recorder in Weather Department situated in Chaudhary Bansi Lal College and his salary is ₹80,000/- per month. Since the application was only for grant of interim maintenance and the same was to be decided after considering the affidavits which have been filed and so far as the allegations are concerned, the same are yet to be decided at the time of final adjudication under Section 125 Cr.P.C. Learned Family Judge even after considering the aforesaid salary so stated by the petitioner to be ₹7,500/- per month considered it fit and proper to award an amount of ₹9,000/- per month in total.

6. The reasoning and the rationale as so stated by the learned Family Court is that the petitioner is an able bodied man and it is his duty to maintain his legally wedded wife and his minor children. It was further so observed that in the absence of cogent and convincing evidence regarding the income of the petitioner, his income is required to be assessed as ₹15,000/- per month because even a labourer usually earns the aforesaid amount at D.C. rates and by presuming the aforesaid income of the petitioner on the lowest side which was so assessed as ₹15,000/- per month, the total amount of interim maintenance to the extent of ₹9,000/- per month has been granted.

7. Hon'ble Supreme Court in "**Anju Garg Vs. Deepak Kumar Garg**", **2022 SCC Online SC 1314** dealt with this issue with regard to the fact that when a husband is an able bodied man and is capable of earning then it is his primary duty to maintain his wife and minor children by doing



an extra work as well. The relevant portion of the aforesaid judgment 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.”

8. Taking into consideration the ratio as laid down by Hon’ble Supreme Court in the aforesaid judgment and also considering the facts and circumstances of the present case, in the present case as well the petition is an able bodied man and even if for the sake of arguments as per his affidavit his income is ₹7,500/- per month then that itself cannot deprive his wife and his minor children from being maintained in a reasonable manner. It is not only a legal and statutory obligation casted upon the petitioner/husband to

**CRR(F)-534-2025 (O&M)****-5-**

maintain his wife, who is having no source of income and his minor children, but it is also a social, moral and economic responsibility of the husband. If he is an able bodied man, he has to work more including working of labour and after earning a reasonable amount it is his legal, moral and social obligation to maintain his wife and minor children and therefore, the argument which has been raised by learned counsel for the petitioner that as per the affidavit of the petitioner, his income is only ₹7,500/- per month and the total interim maintenance which has been granted ₹9,000/- per month is misconceived and is liable to be rejected. The present is a criminal revision petition, regarding which, otherwise also the scope is very limited and apart from the above, the challenge is laid to an interim order which has been passed and not the final order because the petition under Section 125 Cr.P.C. is yet to be decided, therefore, this Court does not find any illegality or perversity in the impugned order passed by learned Family Court. Consequently, the present revision petition being devoid of any merit is hereby dismissed.

9. Since the main case has already been dismissed, all the pending applications also stand disposed of.

09.04.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |