



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

112

CRR(F)-666-2025(O&M)

Date of Decision: 05.05.2025

MALKIAT KAUR

...Petitioner(s)

Versus

HARNEK SINGH

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**Present:- Mr. Anoop Singla, Advocate for the petitioner.**

KIRTI SINGH, J. (Oral)

The present petition has been preferred against the order dated 01.02.2025 passed by the learned Principal Judge, Family Court, Moga, whereby the maintenance application filed by the petitioner under Section 125 of the Code of Criminal Procedure, 1973, was dismissed.

2. The brief facts of the case are that the marriage between the petitioner and the respondent was solemnized in the year 1972 according to Sikh rites and ceremonies, and four children were born out of the said wedlock. It has been averred that the relationship between the parties remained cordial until the year 2015, whereafter, the respondent started neglecting the petitioner without any justifiable reason and abandoned the petitioner. Left with no means of support, the petitioner filed an application under Section 125 of the Cr.P.C., seeking maintenance. The respondent contested the claim by filing a reply. However, the learned Principal Judge, Family Court, Moga, vide order dated 01.02.2025, dismissed the maintenance application filed by the petitioner. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.



3. Learned counsel for the petitioner contends that the respondent has been willfully neglecting the petitioner since 2015 and is now cohabiting with another woman. Despite repeated requests and panchayats, the respondent has refused to provide any maintenance, asserting that the petitioner should depend on her sons or return to her parental home. The petitioner, an elderly woman with no source of income or property, is unable to maintain herself and has been left at the mercy of others. In contrast, the respondent is an able-bodied man earning over ₹2,00,000 annually from leased agricultural land.

4. 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.

5. 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.



6. 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.”

7. 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.”

8. 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.

9. 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."

10. 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 interim maintenance. It was recorded in the impugned order that the petitioner had concealed the fact of previous litigations i.e. civil suit for declaration, joint possession and for permanent injunction filed by her and her sons against the respondent. It was also noted after duly conducting cross-examination of the petitioner and her sons that the house owned by the respondent was in their possession, and that they were jointly cultivating the agricultural land of which also respondent is the owner; whereas the respondent himself had been compelled to live in a 'Dera' at such an old age. Learned Family Court held that the cumulative facts suggest that the petitioner had not been left



destitute and that the proceedings were more likely driven by ongoing family and property disputes rather than genuine financial need. 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.

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

05.05.2025
Kavita Nain

(KIRTI SINGH)
JUDGE

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