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

Sr. No.113

CRR(F)-696-2025 (O&M)
Date of decision : 15.05.2025

Karaj Singh

..... Petitioner

VERSUS

Harpreet Kaur

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Naresh Kaushik, Advocate, for the petitioner.

KIRTI SINGH, J. (Oral)

1. The present petition has been preferred against order dated 05.04.2025 passed by learned Addl. Principal Judge, Family Court, Amritsar, under Section 125 of the Cr.P.C., whereby maintenance of Rs.5,000/- per month was awarded along with litigation expenses of Rs.3300/- in favour of the respondent.

2. The brief facts of the case are that the marriage between the petitioner and the respondent was solemnized on 22.02.2008. A matrimonial dispute ensued between the parties and the respondent filed a petition under Section 125 Cr.P.C. for seeking maintenance. The petitioner filed a reply and contested the claim made by the respondent, whereafter the learned Family Court vide order dated 05.04.2025 granted maintenance of Rs.5,000/- per month along with one time litigation expenses of Rs.3300/- in favour of the respondent. 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 learned Addl. Principal Judge, Family Court, Amritsar has wrongly allowed

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the maintenance to the respondent which is on a very higher side and it has been passed on the basis of wrong facts. It is submitted that prior to her marriage with the petitioner, the respondent was already married to one Baljit Singh on 21.02.2001 and also has a daughter from that wedlock, which was not legally dissolved at the time of their marriage. Further, the respondent has left her matrimonial home without any sufficient cause. Learned counsel submits that in view of the fact that respondent is doing stitching work and earning Rs.7,000/- per month, and that the respondent has already received Rs.22,00,000/- from the petitioner in another case, she is not entitled to any maintenance from the petitioner.

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,

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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

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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:

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(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

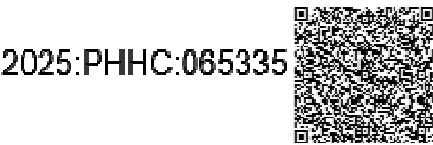
136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956;

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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 below has duly considered the submissions of the petitioner as also raised herein, and the material placed on record at the time of deciding the application for maintenance. It was observed that since the respondent-wife was from within relations of the petitioner, it could not be assumed that the husband would not be aware of her marital status before he solemnized marriage with her. Even otherwise, learned Family Court placed reliance upon the judgment of the Hon'ble Supreme Court passed in **Deoki Panjhiyara Vs. Shashi Bhushan Narayan Azad and another, 2013 (1) RCR (criminal) 338**, whereby it was held that husband cannot deny the claim of maintenance on the ground that the wife was previously married and second marriage was void. A gainful reference in this regard can also be made to the recent judgment of the Hon'ble Supreme Court passed in **Smt. N. Usha Rani and another Vs. Moodudula Srinivas, SLP (Crl.) No.7660 of 2017 decided on 30.01.2025**. With regard to the contention of the husband regarding payment of Rs.22,00,000/- to the wife is concerned, learned trial Court observed that this sum, claimed to have paid by the petitioner to the father of his wife seven years prior to the filing of the application for maintenance, if paid, was a part of a separate transaction between the contesting parties, for which the petitioner could avail a separate remedy for recovery. Qua the quantum of maintenance, the financial capacity of the husband was assessed by taking into account the



admitted fact that he owned 10 acre of agricultural land though he claimed to have sold it later on. Therefore, being an able bodied person capable of earning at least the minimum wage amount, the husband was directed to pay maintenance to the respondent at the rate of Rs.5,000/- per month. Learned counsel for the petitioner has not been able to indicate any perversity in the impugned order which would warrant 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.

(KIRTI SINGH)
JUDGE

15.05.2025
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No