



111

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

**CRR(F)-783-2025
Date of decision: 23.05.2025**

AMIT KAUSHIK

...Petitioner(s)

VERSUS

KAJAL AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Navmohit Singh, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present revision petition has been filed for setting aside the judgment dated 11.04.2025 passed by the learned Principal Judge, Family Court, Sonipat, Camp Court at Ganaur, vide which maintenance under Section 125 Cr.P.C. has been granted to respondent No.1-wife to the tune of Rs.25,000/- per month and respondent No.2-minor daughter to the tune of Rs.5,000/- per month, totalling Rs.30,000/- per month.

2. Learned counsel for the petitioner submitted that so far as respondent No.2-minor daughter is concerned, who has been awarded maintenance to the tune of Rs.5,000/- per month, he does not wish to press the present petition qua her but he is pressing the quantum of maintenance which has been fixed for respondent No.1-wife. He further submitted that it is a case where as per the affidavit filed by the petitioner-husband pertaining to



declaration of his assets and liabilities in terms of the judgment passed by Hon'ble Supreme Court in **Rajnish versus Neha and another, (2021) 2 SCC 324**, his income has been shown to be Rs.12,000/- to Rs.15,000/- per month and so far as respondent No.1-wife is concerned, as per her affidavit, she does not have any source of income but she is a well qualified lady and is able to earn. He further submitted that the petitioner-husband is a small trader dealing with old spare parts and he does not have that much of income on the basis of which maintenance as aforesaid has been fixed for respondent No.1-wife. He further submitted that once the income of the petitioner-husband is only Rs.12,000/- to Rs.15,000/- per month, then an amount of Rs.25,000/- per month which has been fixed as maintenance for respondent No.1-wife is on the higher side and therefore, to that extent the aforesaid judgment is liable to be set aside. He further submitted that respondent No.1-wife also filed a separate complaint under the provisions of Section 12 of the D.V. Act, in which interim maintenance has been granted to respondent No.1-wife regarding which the order has been attached alongwith the present petition as Annexure P-3. While referring to the aforesaid order, he submitted that the aforesaid order was passed by the learned Sub-Divisional Judicial Magistrate, Ganaur on 01.03.2025, wherein it had come on record that respondent No.1-wife had stated that she has recently joined some teaching job and is earning Rs.5,000/- to Rs.6,000/- per month. He also submitted that once it has come on record in collateral proceedings with regard to the earning of respondent No.1-wife then the aforesaid amount of maintenance would be excessive in nature.

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



4. It is a case where the petitioner-husband has filed the present revision petition challenging the judgment dated 11.04.2025 passed by the learned Principal Judge, Family Court, Sonipat, Camp Court at Ganaur, whereby maintenance has been granted to respondent No.1-wife to the tune of Rs.25,000/- per month and respondent No.2-minor daughter to the tune of Rs.5,000/- per month, totalling Rs.30,000/- per month. So far as respondent No.2-minor daughter, who is now of the age of about 4 years is concerned, the learned counsel for the petitioner during the course of arguments, at the outset submitted that he does not wish to press the present petition qua her. The relationship between the petitioner and respondent No.1 is not in dispute and it is also not in dispute that respondent No.2-minor daughter, who is now of the age of about 4 years was born out of the said wedlock and is under the care and custody of respondent No.1-wife.

5. It was the argument raised by the learned counsel for the petitioner that the petitioner-husband is a small businessman dealing with old spare parts and he does not earn much income and even in his affidavit, he has so stated that his income is only Rs.12,000/- to Rs.15,000/- per month and therefore, the aforesaid amount of maintenance is on the excessive side so far as respondent No.1-wife is concerned. A perusal of the aforesaid impugned judgment would show that although the petitioner-husband has so stated in his affidavit filed before the learned Principal Judge, Family Court, Sonipat, Camp Court at Ganaur that his income is Rs.12,000/- to Rs.15,000/- per month but in the affidavit he has also given a description of his business as Shri Krishna Trading and Engineering Works at Neemrana, Rajasthan. At the same time, respondent



No.1-wife had placed on record before the learned Principal Judge, Family Court, Sonipat, Camp Court at Ganaur the record of Shri Krishna Trading and Engineering Works at Neemrana, Rajasthan, which shows that the petitioner-husband is the sole proprietor and he is running his workshop at plot No.404, Eden Park Neemrana, although no document was placed on record to support the contention of respondent No.1-wife that the income of the petitioner-husband is about Rs.1,50,000/-. In this way, in case the petitioner-husband is working either as a mechanic or trader and is the sole proprietor of the aforesaid establishment situated at Eden Park Neemrana, then even if his income is shown to be Rs.12,000/- to Rs.15,000/- per month by him based upon his Income Tax Return reports does not mean that on the aforesaid basis the quantum of maintenance should be fixed. For the purpose of quantum of maintenance, various factors are to be seen. The income of wife has to be seen and in the present case, respondent No.1-wife has no source of income at all. Apart from the above, it also has to be seen as to what is the nature of work performed by the husband and in the present case, the petitioner-husband is the sole proprietor of Shri Krishna Trading and Engineering Works, which is situated at an elite place at Neemrana, Rajasthan. Therefore, the Court has to ascertain the quantum of maintenance by taking into consideration all the aforesaid factors and has to arrive at a conclusion regarding the income which the husband is earning. On the basis of aforesaid ascertainment, the quantum of maintenance has to be fixed. Even if assumingly for the sake of arguments the income of the petitioner-husband is only Rs.12,000/- to Rs.15,000/- per month but at the same time, he has the responsibility to maintain his wife and minor



child and it is not only the income of the husband which is to be seen but the income of the wife, status of the wife and the age of the child are also relevant factors in determining maintenance.

6. Hon'ble Supreme Court while dealing with this issue in **Anju Garg versus Deepak Kumar Garg, (2022) SCC Online SC 1314** observed that in case the husband is an able-bodied man and he is not earning or is earning very less, then he should do more work including work of labour so as to earn sufficient income and thereafter maintain the claimants, who are entitled under the law. The relevant portion of the aforesaid judgment of Hon'ble Supreme Court in **Anju Garg's case (Supra)** 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 Chaturbhuji 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.”

7. In the present case, the petitioner-husband is an able-bodied man and he is the sole proprietor of Shri Krishna Trading and Engineering Works, which is situated at an elite place at Neemrana, Rajasthan. Therefore, the mere fact that the petitioner-husband has shown his income to be only Rs.12,000/- to Rs.15,000/- would not mean that respondent No.1-wife would be deprived of her legitimate and decent quantum of maintenance. In today's time, an amount of Rs.25,000/- per month as maintenance for a wife considering the status of the parties cannot be said to be on the higher side particularly in view of the fact that she is having the care and custody of minor daughter, who is of the age of about 4 years, which is an age when a child usually starts going to the school.

8. So far as the second argument raised by the learned counsel for the petitioner that in another proceedings under the D.V. Act, respondent No.1-wife has so stated during the course of arguments that she has recently started teaching and earning Rs.5,000/- to Rs.6,000/- per month is concerned, the same does not become a part of record of the present case. In case respondent No.1-wife was working and earning something then it has to be pleaded and proved on the record in the proceedings but the same has not been done and even otherwise also, if respondent No.1-wife recently started teaching and earning Rs.5,000/- to Rs.6,000/- per month that itself would not mean that the aforesaid amount of Rs.5,000/- to Rs.6,000/- per month, if at all, would be detriment to her. A human being has to earn to make the both ends meet and cannot be thrown at the mercy of others. The mere fact that even assumingly for the sake



arguments respondent No.1-wife has recently started teaching and earning Rs.5,000/- to Rs.6,000/- per month, will not become an embargo for depriving her of her right of maintenance, which is vested in her by way of a statutory provision of law. The husband is not only statutorily liable but also morally, economically and socially liable to maintain his wife by doing an extra job and by earning more, subject to the condition that he is an able-bodied man in this regard.

9. The present is a Revision Petition filed by the petitioner-husband regarding which the scope is very limited. The facts and circumstances of the present case suggest that there is no illegality or perversity in the aforesaid impugned judgment dated 11.04.2025 passed by the learned Principal Judge, Family Court, Sonipat, Camp Court at Ganaur.

10. Consequently, finding no merit in the present petition, the same is hereby dismissed.

23.05.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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