

**CRR(F)-393-2020****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****202****CRR(F)-393-2020****Date of Decision: 05.05.2025**

Ranjeev Kumar

...Petitioner

Versus

Simi Nanda and another

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGHPresent: Mr. Gurmohan Singh Bedi, Advocate
for the petitionerMr. Vivek Salathia, Advocate
for the respondent

KIRTI SINGH, J. (Oral)

1. The present petition has been preferred against order dated 22.10.2020 passed by learned Principal Judge, Family Court, Gurdaspur whereby the petition under Section 125 of the Cr.P.C. for grant of interim maintenance filed by the respondent has been allowed and maintenance to the tune of Rs.30,000/- per month has been allowed from the date of application i.e. 08.01.2020 and for setting aside order dated 26.10.2020 and conditional warrant dated 29.10.2020 passed by learned Principal Judge, Family Court, Gurdaspur.

2. The marriage between the petitioner and respondent No. 1 was solemnised on 18.10.2015 according to the Hindu rites and ceremonies and out of the said wedlock one child was born. A matrimonial dispute ensued between the couple, and 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



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respondents. The learned Court below vide order dated 22.10.2020 granted interim maintenance of Rs.30,000/- per month in favour of the respondents from the date of application i.e. 08.01.2020. Subsequently, on account of non-payment of the amount so granted, conditional warrants dated 29.10.2020 were issued by learned Principal Judge, Family Court, Gurdaspur. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

3. Learned counsel for the petitioner contends that the learned Principal Judge, Family Court, Gurdaspur, has allowed the maintenance to the respondents on a very higher side. The said order has been passed by overlooking the fact that respondent No. 1 is highly qualified and she remained Assistant Professor/Head of the Department, Shivalik College of Education, Gurdaspur. Moreover, after filing of the proceedings under Section 125 Cr.P.C., respondent No. 1 had suffered a statement before the learned Family Court that she did not wish to press the application for interim maintenance at that stage. Since at that stage, maintenance to the tune of Rs. 18,000/- was also fixed under Section 24 HMA in favour of respondent No. 1 during the pendency of divorce proceedings between the parties, which were later dismissed on 17.12.2019. Thus, in view of these submissions, the respondents are not entitled for any further maintenance amount from the petitioner. Qua the conditional warrants issued against the petitioner, it is submitted that the petitioner deposited Rs. 40,000/- towards payment of arrears of interim maintenance, whereafter the warrants so issued were recalled vide order dated 24.11.2020.

4. Per contra, learned counsel for the respondents states that though respondent No. 1 was working as a teacher earlier, however, her services were terminated due to the constant interference by the petitioner, and it is because of this reason that she has not been able to secure another job. In these



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circumstances, she is totally dependant on her father for financial needs, who is also of considerable age and is earning his livelihood by running a kiriyana store. The minor child, respondent No. 2 is also in the care and custody of respondent No. 1.

5. 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.

6. 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 or any other unfortunate circumstance. 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.

7. 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.”

8. 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:



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“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.”

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. 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



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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."

11. A perusal of the impugned order passed by the learned Family Court makes it evident that the Court below has duly considered the material placed before it at the time of deciding the application for maintenance. It was observed that respondent NO. 1 – wife was not working and, thus, had no independent source of income. Further, it was recorded that the petitioner-husband was admittedly earning a salary of Rs. 60,000/- per month and also had a stream of income from his immovable property and other sources. Therefore, the monthly income of the petitioner herein was assessed to be Rs.85,000/-. It was only thereafter that the said quantum of maintenance was justly fixed, keeping in mind the socio-economic status of parties. 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.

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

05.05.2025

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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No