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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-1111-2024 (O&M)
Date of Decision: 07.07.2025

Ramandeep Kaur

....Petitioner(s)

Versus

Gurpreet Singh

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Gehna Vaishnavi, Legal Aid Counsel,
for the petitioner.

Mr. Vinod Khunger, Advocate for the respondent.

JASGURPREET SINGH PURI, J. (Oral)

1. The present revision petition has been filed challenging the order dated 23.05.2024 passed by the learned Principal Judge, Family Court, Ferozepur, whereby the petition filed by the petitioner-wife under Section 125 Cr.P.C has been dismissed.

2. Learned counsel appearing on behalf of the petitioner who is a Legal Aid Counsel appointed by this Court submitted that it is a case where the petitioner-wife and the respondent-husband solemnized marriage with each other and this is second marriage of both of them and the marriage between the present petitioner and respondent has not been disputed anywhere. She submitted that she had led the entire evidence to show before the learned Judge, Family Court that she has been neglected by the respondent-husband and he has not paid any maintenance to her despite the fact that he was earning a handsome amount of money, whereas the petitioner has no source of income.



However, the petition under Section 125 Cr.P.C has been dismissed and maintenance has been denied to the present petitioner who is the wife only on the ground that her earlier marriage was not dissolved by a decree of divorce passed by the Court of law and rather only a panchayati divorce has taken place which has got no sanctity under the law. She submitted that rather from the present wedlock i.e. the wedlock of the petitioner and the respondent, a child was born who is in the care and custody of the present petitioner and they have cohabited with each other after the marriage between the parties took place in the year 2019. She further submitted that the claim of the petitioner for grant of maintenance has been rejected erroneously on the ground that her earlier marriage was not dissolved, whereas she was able to prove the marriage with the respondent and also the fact that they have cohabited with each other. She submitted that rather the respondent-husband was also earlier married and the fact regarding first marriage and regarding divorce of petitioner-wife was within the knowledge of the respondent-husband. In this regard, she referred to a judgment of Hon'ble Supreme Court in ***Smt. N. Usha Rani and another Vs. Moodududla Srinivas*** 2025(2) RCR (Civil) 1, and submitted that a woman can claim maintenance from her second husband under Section 125 Cr.P.C even if her first marriage is not dissolved through a legal decree, provided she is *de facto* separated from her first husband and not deriving any rights or entitlements from the first marriage. She submitted that in the present case the petitioner-wife was earlier married and her marriage was not dissolved but the same itself *per se* cannot become a ground for denial of maintenance in view of the aforesaid judgment of Hon'ble Supreme Court. She also referred to a judgment of Chhattisgarh High Court in ***Criminal Revision No.755 of 2021*** titled as ***Ashok Srivastava Vs. Anju Samudri Shrivastava***, decided on



12.10.2022 in this regard.

3. On the other hand, learned counsel appearing on behalf of the respondent-husband submitted that the matter was sent to the Mediation and Conciliation Centre of this Court but the same has failed. He submitted that in case the proposition of law is as aforesaid, then he has no objection in case the matter is remanded back to the learned Judge, Family Court for deciding the petition on merits.

4. I have heard the learned counsels for the parties.

5. When the petitioner filed a petition for grant of maintenance under Section 125 Cr.P.C before the learned Judge, Family Court, she has been denied maintenance only on the ground that she was earlier married and her earlier marriage has not been dissolved by a decree of divorce. The law with regard to the same is no longer *res integra*. Hon'ble Supreme Court in ***Smt. N. Usha Rani and another Versus Moodududia Srinivas (Supra)*** has held as under:-

“17. This encapsulates the full scope and gravity of considerations before this Court as we deliberate on the issue at hand. The present case does not concern a live-in relationship. The Family Court made a factual finding that Appellant No. 1 married the Respondent and that finding is not disputed by the Respondent. Instead, the Respondent seeks to defeat the right to maintenance by claiming that his marriage to Appellant No. 1 is void ab initio as her first marriage is still subsisting. Two other pertinent facts must be considered: firstly, it is not the case of the Respondent that the truth was concealed from him. In fact, the Family Court makes a specific finding that Respondent was fully aware of the first marriage of the Appellant No. 1. Therefore, Respondent knowingly entered into a marriage with



Appellant No. 1 not once, but twice. Secondly, Appellant No. 1 places before this Court an MoU of separation with her first husband. While this is not a legal decree of divorce, it also emerges from this document and other evidence that the parties have dissolved their ties, they have been living separately and Appellant No. 1 is not deriving maintenance from her first husband. Therefore, barring the absence of a legal decree, Appellant No. 1 is de facto separated from her first husband and is not deriving any rights and entitlements as a consequence of that marriage.

18. In the opinion of this Court when the social justice objective of maintenance under section 125CrPC is considered against the particular facts and circumstances of this case, we cannot, in good conscience, deny maintenance to Appellant No. 1. It is settled law that social welfare provisions must be subjected to an expansive and beneficial construction and this understanding has been extended to maintenance since Ramesh Chander (supra). An alternate interpretation would not only explicitly defeat the purpose of the provision by permitting vagrancy and destitution, but would also give legal sanction to the actions of the Respondent in knowingly entering into a marriage with Appellant No.1, availing its privileges but escaping its consequent duties and obligations. The only conceivable mischief that could arise in permitting a beneficial interpretation is that the Appellant No.1 could claim dual maintenance--however, that is not the case under the present facts. We are aware that this Court has previously denied maintenance in cases of subsisting marriages (See Yamunabai (supra) and Bakulabai (supra)). However, a plea of separation from the first marriage was not made in those cases and hence, they are factually distinguishable. It must be borne in mind that the right to maintenance under section 125 CrPC is not a benefit received by a wife but rather a



*legal and moral duty owed by the husband. A recent landmark judgement of this Court in **Mohd. Abdul Samad v. State of Telangana and Another (2024) SCC Online SC 1686** has shed greater light on this duty in the Indian context:*

"43. In this context, I would like to advert to the vulnerability of married women in India who do not have an independent source of income or who do not have access to monetary resources in their households particularly for their personal expenses. In Indian society, it is an established practice that once a daughter is married, she resides with her husband and/or his family unless due to exigency of career or such other reason she has to reside elsewhere. In the case of a woman who has an independent source of income, she may be financially endowed and may not be totally dependent on her husband and his family. But what is the position of a married woman who is often referred to as a "homemaker" and who does not have an independent source of income, whatsoever, and is totally dependent for her financial resources on her husband and on his family? It is well-known that such an Indian homemaker tries to save as much money as possible from the monthly household budget, not only to augment the financial resources of the family but possibly to also save a small portion for her personal expenses. Such a practice is followed in order to avoid making a request to the husband or his family for her personal expenses. Most married men in India do not realise this aspect of the predicament such Indian homemakers face as any request made for expenses may be bluntly turned down by the husband and/or his family. Some husbands are not conscious of the fact that the wife who has no independent source of



finance is dependent on them not only emotionally but also financially. On the other hand, a wife who is referred to as a homemaker is working throughout the day for the welfare of the family without expecting anything in return except possibly love and affection, a sense of comfort and respect from her husband and his family which are towards her emotional security. This may also be lacking in certain households.

*44. While the contributions of such a homemaker get judicial recognition upon her unfortunate death while computing compensation in cases under the Motor Vehicles Act, 1988 vide **Kirti v. Oriental Insurance Co. Ltd., (2021) 2 SCC 166**, the services and sacrifices of homemakers for the economic well-being of the family, and the economy of the nation, remain uncompensated in large sections of our society.*

45. Therefore, I observe that an Indian married man must become conscious of the fact that he would have to financially empower and provide for his wife, who does not have an independent source of income, by making available financial resources particularly towards her personal needs; in other words, giving access to his financial resources. Such financial empowerment would place such a vulnerable wife in a more secure position in the family. Those Indian married men who are conscious of this aspect and who make available their financial resources for their spouse towards their personal expenses, apart from household expenditure, possibly by having a joint bank account or via an ATM card, must be acknowledged.

46. Another aspect of vulnerability of a married Indian woman is regarding her security of residence in her matrimonial home. In this context in the case



of Prabha Tyagi v. Kamlesh Devi, (2022) 8 SCC 90, this Court while considering Section 17 along with other provisions of the Domestic Violence Act, 2005 opined as under:

"60. In our view, the question raised about a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed must be interpreted in a broad and expansive way, so as to encompass not only a subsisting domestic relationship in praesenti but also a past domestic relationship. Therefore, Parliament has intentionally used the expression "domestic relationship" to mean a relationship between two persons who not only live together in the shared household but also between two persons who "have at any point of time lived together" in a shared household."

47. Thus, both 'financial security' as well as 'security of residence' of Indian women have to be protected and enhanced. That would truly empower such Indian women who are referred to as 'homemakers' and who are the strength and backbone of an Indian family which is the fundamental unit of the Indian society which has to be maintained and strengthened. It goes without saying that a stable family which is emotionally connected and secure gives stability to the society for, it is within the family that precious values of life are learnt and built. It is these moral and ethical values which are inherited by a succeeding generation which would go a long way in building a strong Indian society which is the need of the hour. It is needless to observe that a strong Indian family and society would ultimately lead to a stronger nation. But, for that to



happen, women in the family have to be respected and empowered”.

6. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 23.05.2024 passed by the learned Principal Judge, Family Court, Ferozepur is hereby set aside. The matter is remanded back to the learned Principal Judge, Family Court, Ferozepur for deciding the petition under Section 125 Cr.P.C on merits. The Principal Judge, Family Court, Ferozepur will apply his fresh mind by passing a fresh order in accordance with law and strictly in the light of the aforesaid judgment of Hon'ble Supreme Court, uninfluenced by the earlier judgment passed by the learned Principal Judge, Family Court, Ferozepur and also the present order. The fresh order shall be passed as expeditiously as possible.

07.07.2025

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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