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

**CRM-M-1773-2020 (O&M)
Date of Decision: 15.05.2025**

Jagjiwan Ram

..... Petitioner

Versus

Balwinder Kaur @ Noori

.....Respondent

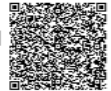
CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sumit Jain, Advocate with
Mr. Dushyant Rana, Advocate
for the petitioner.

Ms. Balwinder Kaur @ Noori, Respondent in person.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 482 of Code of Criminal Procedure for setting aside the order dated 09.08.2019 passed by learned ASJ, Ludhiana in Criminal Appeal No.2120 of 2019 dated 13.02.2019 titled as 'Jagjivan Ram Vs. Balwinder Kaur' whereby the impugned order dated 01.02.2019 (Annexure P-2) passed by learned SDJM, Khanna (wherein the interim application for maintenance filed by the respondent under the Domestic Violence Act, 2005 vide No. COMA. No.4 dated 14.02.2018 titled as 'Balwinder Kaur @ Noori Vs. Jagjiwan Ram' was allowed by directing the petitioner to pay ad interim maintenance to the tune of ₹12,000/- per month in total to the respondent i.e. ₹5,000/- per month as maintenance for minor son, ₹5,000/- as litigation expenses and ₹3,000/- per month as monthly rent for alternative accommodation has been upheld by dismissing the criminal appeal of the petitioner.

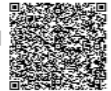


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2. In pursuance of the order passed by this Court yesterday i.e. on 14.05.2025, the petitioner/husband is present in Court today.

3. Mr. Sumit Jain with Mr. Dushyant Rana, learned counsels for the petitioner while giving the facts of the case submitted that the marriage between the petitioner and the respondent took place on 14.02.2015 at Khanna where they resided together as husband and wife in a share household. Thereafter out of the wedlock a male child was born on 08.12.2016, who is of the age of about 8-9 years. Respondent/wife was 100% blind even at the time of marriage and the marriage was a love marriage. They further submitted that the respondent/wife is an athlete and has participated in various national and international level events of Javelin Throw but matrimonial discord took place between the parties after the birth of their child and they started residing separately. They also submitted that thereafter the respondent-wife filed a complaint under Section 12, 17, 19(1)(F)(3)(6) (8), 20, 22 and 31 of the Protection of Women from Domestic Violence Act, 2005 before learned Sub-Divisional Judicial Magistrate, Khanna in the year 2018 in which an order was passed on 01.02.2019 whereby interim maintenance has been granted to the respondent/wife and to the minor child. Learned SDJM, Khanna directed the petitioner/husband to pay an interim maintenance to the tune of ₹12,000/- per month to respondent/wife and ₹5,000/- per month towards the minor son, who is in the care and custody of the respondent/wife. Apart from the above, it was also directed to provide alternate accommodation of the same level to the respondent/wife and the child within a period of one month and in default of the same she will be entitled for a monthly rent to the tune of ₹3,000/- per month. The aforesaid impugned order passed by learned SDJM, Khanna was assailed by the

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petitioner/husband by filing an appeal before the learned Additional Sessions Judge, Ludhiana and by way of the impugned judgment dated 09.09.2019 passed by learned Appellate Court vide Annexure P-1, the same has been dismissed and in this way the orders passed by learned SDJM while granting interim maintenance as aforesaid has been upheld. These two judgments are under challenge before this Court vide the present petition under Section 482 of the Code of Criminal Procedure.

3. Learned counsels for the petitioner further submitted that it was an admitted case of the petitioner/husband before learned SDJM, Khanna that his income is ₹25,000/- per month since he is working as a Sub-Editor in a newspaper. So far as the income of the respondent/wife is concerned, there was nothing which was placed on record at the time of ascertaining and deciding the grant of interim maintenance. They further submitted that it is not in dispute that the minor child, who is now of the age of 8-9 years is under the care and custody of respondent/wife. While assailing the aforesaid orders, they submitted that out of the aforesaid amount of ₹25,000/- per month which he is earning he is unable to maintain his wife and son because the total interim maintenance granted to them is to the tune of ₹12,000/-+ ₹5,000/-= ₹17,000/- per month and in addition to that in case the rented accommodation is not provided to them then an amount of ₹3,000/- per month is to be paid and therefore, out of the aforesaid total amount of ₹25,000/- per month which he is earning, he cannot maintain them as he is also taking care of his widow mother and widow sister and therefore, the aforesaid orders may be set aside

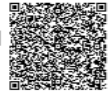
4. On the other hand, Respondent-wife has appeared in Court in-person. She undisputedly is 100% blind and has come to this Court along

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with her son and her old father. Yesterday, when the matter was taken up she had so expressed that she is ready to go back to the matrimonial home and wants to reside there peacefully despite the pendency of the litigation to which this Court had directed the petitioner to be present in the Court today and in pursuance thereof the petitioner/husband is present in Court today. On being specifically asked by this Court and also by the learned counsels for the petitioner as to whether the petitioner is ready to rehabilitate with the respondent/wife by burying the past differences or not to which he refused.

5. Respondent-wife, who is 100% blind has apprised this Court that she is an athlete of inter-national level and at the age of 19 years while she was playing she fell down and at that point of time she became 100% blind. At the time of the marriage of the respondent/wife with the petitioner/husband, she was already blind but the marriage took place being a love marriage and a child was born. The respondent/wife while narrating her achievements at the national and inter-national level submitted that she is an inter-national player of Discus-Throw, Javelin-Throw and Shot Put and she is a Gold Medalist in Paralympics which was held in Bangalore for Javelin-Throw and also Gold Medalist in Shot Put which was held in Dubai and she is taking care of her minor child.

6. She further submitted that the aforesaid amount which has been fixed by way of an interim order which is impugned in the present case is only an interim order vide which an amount of the ₹12,000/- per month has been granted to her and ₹5,000/- per month has been granted to minor child and it is very difficult for her to make her both ends meet with the aforesaid amount specially in today's inflationary tendencies. She also submitted that her son goes to the school and his monthly expenses which is paid to the

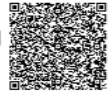
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school is ₹4,000/- per month and in addition to that bus fee and other miscellaneous expenses is over and above the same. In addition to above, the child is being very young and the respondent-wife being 100% blind she is not able to teach him personally so ₹3,000/- per month go towards tuition expenses and there are various other medical and miscellaneous expenses as well. Therefore, the aforesaid amount of ₹17,000/- per month cannot be said to be on the excessive side.

7. She further submitted that the petitioner/husband filed a petition before this Court in the year 2020 and the impugned order was passed in the year 2019 by learned SDJM and till date only an amount of ₹1,25,000/- (Approximately) has been paid to her in the last 6 years and in this way, she has been suffering and has prayed that the present petition be dismissed.

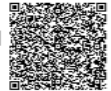
8. I have heard the learned counsel for the petitioner and Respondent/wife, who has appeared in-person.

9. Some of the facts of the present case are not disputed. It is not in dispute that the petitioner and the respondent were legally married and a male child was born out of the wedlock on 08.12.2016, who is now of the age of 8-9 years and he is in the care and custody of the respondent-wife. It is also not in dispute that the respondent-wife is 100% blind and she is an athlete at the national and international level. A perusal of the impugned order passed by learned SDJM and learned Appellate Court would show that it was an admitted case of the petitioner/husband that his income out of his salary was ₹25,000/- per month and there was nothing on the record to show that the respondent-wife was having any source of income and at the same time she was having the care and custody of the minor child. By way of the impugned order, only interim maintenance has been fixed whereas the main

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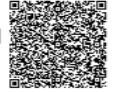
petition is still pending. However, the petitioner/husband assailed the aforesaid orders by filing the present petition and while issuing notice of motion, a Co-ordinate Bench of this Court directed that in the meantime, the operation of the impugned order shall remain stayed till the next date of hearing. Thereafter, the petition before learned SDJM did not progress. This petition was earlier dismissed for non-prosecution on 15.07.2024 and it was also directed that the pending applications if any shall also be disposed of. Still the trial of the complaint did not progress. Thereafter, on the application being filed by the petitioner, the main case was directed to be restored on 16.09.2024, but still the trial of the case did not progress and in this way neither the petition progressed nor the interim order passed were implemented *in toto*. During the course of the arguments, this Court has put a query to the respondent-in-person as to whether she had filed an execution petition or not to which she submitted that the same is not progressing because of interim order passed by this Court although earlier the main case was dismissed for non-prosecution. Therefore, she has not been paid any money except for a total amount of ₹1,25,000/-.

10. The law with regard to maintenance of wife and children especially under Section 125 Cr.P.C. is well settled. It is a settled law that even when a husband is unemployed and is not earning anything and at the same time he is an able bodied man, then he has to do work and earn money and thereafter to maintain his wife and children. Reference can be made in this regard to the judgment of Hon'ble Supreme Court in "Anju Garg Vs. Deepak Kumar Garg", 2022 SCC Online SC 1314. The relevant portion of the aforesaid judgment is reproduced as under:-

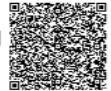


“10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court 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.”

11. This Court would, therefore, consider the present case in light of two aspects. Firstly, whether the impugned orders by which the interim maintenance was granted to the respondent-wife are erroneous or perverse or not in the facts and circumstances. Secondly as to whether the filing of the present petition challenging the orders passed by the learned SDJM and upheld by the Appellate Court for grant of interim maintenance tantamounts to perpetuating litigation by the husband against his wife, who is 100% blind and whether the present petition is vexatious or not and if yes, then what are the consequences thereof.

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12. Considering the first aspect of the present case, a perusal of the impugned orders and after hearing the learned counsels for the petitioner and the respondent-in-person, it is *ex facie* clear that the income of the petitioner/husband is admittedly ₹25,000/- per month although the main complaint is still pending whereas there is no income of the respondent-wife on record. They are living separately but the marriage between them is not in dispute. A minor son of the age of 8-9 years is in the care and custody of the respondent-wife. The total amount as interim maintenance has been fixed for respondent/wife and the minor son is only ₹12,000/-+₹5,000/- = ₹17,000/-. The respondent/ wife is 100% blind and during the course of arguments the respondent-wife has so stated before this Court categorically that she is living in a rented accommodation and she is paying the rent for the same and her parents are also living with her. Therefore, by no stretch of imagination it can be said that the impugned orders which have been passed are either erroneous or perverse. So far as the quantum of the interim maintenance is concerned, an amount of ₹12,000/- per month for the wife who is not earning anything and who is 100% blind cannot be said to be on the higher side under any circumstance. Similarly an amount of ₹5,000/- per month as interim maintenance for the minor son of the age of 8-9 years as per the expenditures so stated by the respondent cannot be said to be on excessive side by any stretch of imagination. Similarly, an order was passed for paying the rent or arranging alternate accommodation on rent and in default of the same an amount of ₹3,000/- per month is to be paid to the respondent/wife also cannot be said to be perverse. Therefore, there is no ground made out for intervention and for invoking extraordinary provision of this Court under Section 482 of the Code of Criminal Procedure.



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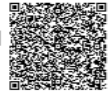
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13. So far as the second aspect is concerned, whereby the respondent/wife who is 100% blind having care and custody of a minor child of the age of 8-9 years was only granted interim maintenance as aforesaid and the fact that she has been pursuing her case from the year 2019 when she filed the complaint (i.e. for the last 6 years) and on the other hand the petitioner/husband who is earning an amount of ₹25,000/- per month has filed the present petition challenging grant of interim maintenance only. Therefore, this Court is of the considered view that filing of this petition under Section of 482 of the Code of Criminal Procedure amounts to perpetuating the litigation at the hands of the petitioner/husband and it is *ex facie* a vexatious petition.

14. So far as the contention raised by learned counsel for the petitioner that he is maintaining his widow mother and sister is concerned, this Court is of the considered view that the aforesaid cannot become a ground for denial of maintenance to the respondent-wife which is otherwise his statutory, moral, social and economic responsibility.

15. Consequently, the present petition is hereby dismissed with ₹50,000/- (Rupees Fifty Thousand Only) as costs upon the petitioner. The petitioner is hereby directed to deposit the aforesaid costs before the learned SDJM within a period of 3 months from today. On his deposit of the same, learned SDJM shall transmit the same to the respondent-wife by way of a demand draft in her name.

16. In case the aforesaid amount is not deposited by the petitioner within the aforesaid period, then learned SDJM is hereby directed to ensure that the aforesaid amount is deposited by the petitioner and to recover the same from him in accordance with law including recovery as arrears of land

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revenue.

17. Since the present petition has been decided, all the interim orders passed by this Court shall stand vacated.

18. Learned SDJM, Khanna is also directed to expedite the complaint which is now pending and to decide the same as expeditiously as possible and preferably within a period of 6 months from today.

19. A copy of this order be sent to the learned SDJM, Khanna for information and compliance purposes.

15.05.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |