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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***********CRR(F)-1612-2023
Date of Decision: 24.04.2025**

Sudhir

..... Petitioner

Versus

Sharmila

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURIPresent: Mr. Raman Mahajan, Advocate
for the petitioner.Mr. Sunny Namdev, Legal Aid Counsel,
for the respondent.**********JASGURPREET SINGH PURI, J. (ORAL)**

1. The present revision petition has been filed by the petitioner/husband for challenging the order dated 19.09.2023 passed by learned Principal Judge, Family Court, Jhajjar by which a petition under Section 125 Cr.P.C. has been decided and the respondent/wife has been granted maintenance of ₹5,000/- per month.

2. Learned counsel for the petitioner submitted that the marriage between the petitioner and respondent was solemnized on 22.11.2016 and thereafter, a male child was born out of the said wedlock on 17.05.2018, who is in the care and custody of the respondent/wife from the time of birth till today. He further submitted that the respondent/wife has filed a petition under Section 125 Cr.P.C. for seeking maintenance. He also submitted that the petitioner was earlier working as a Steno in the Municipal Corporation, Chandigarh but he was charged under the Prevention of Corruption Act and was also convicted under the aforesaid Act and thereafter, was terminated from service on 04.12.2020. He further submitted that the petitioner is a

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person with disability to the extent of 50% as long time ago he met with an accident which was even proved on record before learned Family Court vide Exhibit R-2 which is dated 08.09.2004 wherein it has been so mentioned that he is a person with disability to the extent of 50% from left arm and left leg. He submitted that one of the arms was chopped off and is not existing. He further submitted that since the petitioner was terminated from service, he was not granted any terminal benefits and he is only receiving disability pension from the Government which is to the tune of ₹1,000/- per month vide Exhibit R-3 and since the petitioner is a person with disability and his income is only ₹1,000/- per month and the maintenance which has been fixed for the respondent/wife is to the tune of ₹5,000/- per month, the same cannot sustain because he is not able to pay the aforesaid amount and he is not even able to earn any amount for the purpose of maintaining his wife and child.

3. On the other hand, learned counsel for the respondent/wife submitted that the respondent/wife is having the care and custody of the minor child, who is now of the age of 7 years and has also started going to school and it has also come on record that the respondent/wife is having no source of income and is dependent upon her parents and it has become impossible for her to make her both ends meet for herself and also to feed her child. He also submitted that the fact regarding the marriage between the parties and that a child was born out of the wedlock is not in dispute. Therefore, it is not only a statutory obligation upon the petitioner to maintain his child but it is also a moral responsibility of the petitioner particularly in view of the fact that the respondent/wife is having no source of income. He submitted that in the present case even as per the Disability Certificate, the

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petitioner became disabled in the year 2004 while he was in service and he worked as a Steno in the Municipal Corporation up till 2020 and had been discharging his duties as a Steno with his right hand but he was terminated from service on account of being caught red handed while taking bribe and he has since been convicted in the aforesaid FIR under the Prevention of Corruption Act. He also submitted that even as per the Disability Certificate, the petitioner was born in the year 1981 and therefore, his approximate age would be around 44 years and he is a young man.

4. He further submitted that although it is a settled law that an able bodied man has to maintain his wife and children but in the present case, the circumstances suggest that although the petitioner is a person with disability to the extent of 50% from left arm and leg but still he discharged his duties working as a Steno in the Municipal Corporation, Chandigarh for about 16 years and he did not receive any terminal benefits because he was terminated on account of taking bribe but at the same time he has to maintain his wife and child, who is of the age of 7 years by doing any job which can be done by such a person with limited disability. He also submitted that the aforesaid amount of ₹5,000/- per month so fixed by learned Family Court is not on excessive side because now a days an amount of ₹5,000/- per month is on the lower side considering the inflationary tendencies, price structure and the expenses to be born on the child. He further submitted that the aforesaid amount of ₹5,000/- per month is even less for the maintenance of the child alone and the respondent/wife is having no source of income and she also cannot make her both ends meet. Therefore, it cannot be said by any stretch of imagination that ₹5,000/- per month for both the wife and son is on the excessive side.

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

6. It is a case where the petitioner is the husband and has assailed the order passed by learned Family Court by which an amount of ₹5,000/- per month has been fixed as maintenance for the respondent/wife. A perusal of the impugned order would show that respondent/wife, who is having care and custody of a male child of the age of 7 years, has no source of income. As per the order, although allegations have been made that the respondent/wife is living with somebody else but the same has not been proved on record. The marriage between the parties is not in dispute and it is also not in dispute that one child is born out of the wedlock who is about 7 years of age and is in the care and custody of the respondent/wife.

7. An argument was advanced by learned counsel for the petitioner that the petitioner does not have any source of income because earlier he was working as a Steno in the Municipal Corporation, Chandigarh but on 04.12.2020 he has been terminated from service being charged under the Prevention of Corruption Act and thereafter, he was also convicted under the aforesaid Act. Learned counsel for the petitioner submitted that the petitioner did not receive any terminal benefits because of his termination. Another argument was raised by learned counsel for the petitioner that the petitioner is a person with disability to the extent of 50% because his left arm was chopped off in an accident and in this regard, the Disability Certificate was proved on record as Exhibit R-2 which is dated 08.09.2004 whereas on the other hand, it was the argument of learned counsel for the respondent that when the petitioner became a person with disability in the year 2004, then thereafter he worked in the Municipal Corporation as a Steno till the year 2020 i.e. for 16 years and he had been discharging his

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duties and the mere fact that he is a person with disability would not mean that he will be absolved from his responsibility for maintaining his wife and small minor child only because of the reason that he is receiving disability pension of ₹1,000/- per month.

8. 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 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 Chaturbhuja 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,

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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.”

9. The facts and circumstances of the present case are little different wherein it cannot be said that the petitioner is a fully able bodied man because he is a person with disability to the extent of 50% from his left arm and left leg. However at the same time it has come on the record especially in Para 49 of the impugned judgment that the petitioner had worked in the Municipal Corporation as a Steno till the year 2020 and his Disability Certificate is of the year 2004 which means that for 16 years he had worked in the Municipal Corporation as Steno. Learned Family Court has also considered this issue with regard to his disability by observing that in today's scenario a skilled person/Steno manages to earn about ₹20,000/- to ₹24,000/- per month. The question here would be that in view of the aforesaid facts and circumstances that the petitioner is stated to be a person with disability from left hand how the wife and the small child of the age of 7 years, regarding which, relationship is not in dispute, will make their both ends meet and who will take care of the child who is now at the growing age and must be going to school and all these issues are also to be considered along with the argument raised by learned counsel for the petitioner that the petitioner is a person with disability to the extent of 50% from left hand. As per the learned counsels for the parties, the matter was also sent to the Mediation and Conciliation Centre of this Court and for a number of times attempt were made to settle the dispute but it failed all the time. It means that despite best efforts being made, the matter could not be settled between

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the parties and at the same time it has also come on record and as per learned Family Court that the respondent/wife is having no source of income.

10. The amount of maintenance which has been fixed by way of the impugned order passed by learned Family Court is only ₹5,000/- per month. Although the petitioner is stated to be earning ₹1,000/- per month as disability pension but he is of the age of 44 years and considering the fact that he worked as a Steno in the Municipal Corporation for 16 years after becoming a person with disability and the fact that he is still a skilled person but because of a limited disability he cannot do the same level of work, still he cannot escape his responsibility which is a statutory liability under Section 125 Cr.P.C. Had it been the case that some exorbitant maintenance was fixed by the learned Family Court, then this Court could have considered reducing the amount of maintenance but the total maintenance which has been fixed is only ₹5,000/- per month and that too for the wife and for the small child of the age of 7 years. Apart from the above, the present is a revision petition and the scope of the revision petition is very limited and learned Family Court has aptly discussed the issue which are peculiar to the present case especially pertaining to the limited disability of the petitioner and has fixed ₹5,000/- per month as maintenance. Therefore, this Court does not find any illegality or perversity in the impugned order passed by learned Family Court while granting interim maintenance of ₹5,000/- per month to the respondent/wife.

11. Consequently, the present revision petition is hereby dismissed.

24.04.2025*Bhumika*

(JASGURPREET SINGH PURI)
JUDGE

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