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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 556/2023 & CRL.M.A. 13287/2023**

PANKAJ KR. KABDWALPetitioner

Through: Mr. Abhishek Jha & Mr.
Saroj Kumar Jha, Advs.
(through VC)

versus

STATE AND ORSRespondents

Through: Mr. Raj Kumar, APP for
the State
Ms. Nirmal Chawla
Bhalla, Adv. (through VC)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **09.09.2025**

1. The present revision petition is filed by the petitioner challenging the judgment dated 08.02.2023 (hereafter '**impugned judgment**') passed by the learned Family Court, East District, Karkardooma Courts, Delhi in MT No. 488/2018.
2. By the impugned judgment the learned Family Court, decided the petition filed by Respondent No. 2 under Section 125 of the Code of Criminal Procedure, 1973 ('**CrPC**') and awarded final maintenance of ₹15,000/- per month each to Respondent Nos. 2 and 3 till the period they are eligible for the same.
3. It is averred that the marriage between the petitioner and Respondent No. 2 was solemnized on 06.02.2013 as per Hindu rites and rituals, whereafter, on 19.11.2013 one male child (Respondent No. 3) was born out of the said wedlock.
4. It is alleged that from the inception of marriage, Respondent No. 2 would regularly indulge in quarrels with the

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petitioner and his family members. It is alleged that due to such disputes the petitioner was constrained to move out from his parental home in Uttarakhand to a rented accommodation in Delhi along with Respondent No. 2.

5. It is alleged that on 29.11.2014, Respondent No. 2 along with Respondent No. 3, without giving any intimation to the petitioner left from their house in Delhi and started residing at her parental home.

6. It is alleged that, thereafter, on 15.01.2015, Respondent No. 2 along with Respondent No. 3 was dropped at the parental home of the petitioner in Uttarakhand, where the petitioner had come to sit for an examination.

7. It is alleged that their relationship was peaceful for some time, whereafter, misunderstandings again took place between Respondent No. 2 and the petitioner.

8. It is alleged that on 23.05.2015, Respondent No. 2 along with Respondent No. 3 had left to visit her parental home in Delhi and has not returned since then. It is alleged that the petitioner has tried multiple times to call Respondent No. 2 back, however, all his attempts were in vain.

9. It is alleged that in June 2016, Respondent No. 2 filed a false complaint against the petitioner and his family members under Section 498A of the Indian Penal Code, 1860 ('**IPC**'). It is alleged that, thereafter, in December 2016, Respondent No. 2 filed a petition under the provisions of the Protection of Women from Domestic Violence Act, 2005 ('**DV Act**').

10. Subsequently, in November 2017, Respondent No. 2 filed a petition under Section 125 of the CrPC along with an



application under Section 125(3) of the CrPC seeking interim maintenance.

11. The learned Family Court by order dated 01.09.2018 allowed the application filed by Respondent No. 2 under Section 125(3) seeking interim maintenance. The learned Family Court noted that Respondent No. 2 cannot be denied interim maintenance on the ground that she is an educated woman and thereby awarded interim maintenance of ₹10,000/- per month each to Respondent Nos. 2 and 3 till the final disposal of the case.

12. As noted above, the learned Family Court after appreciating the evidence recorded during the course of proceedings, by the impugned judgment allowed the petition filed by Respondent No. 2 under Section 125 of the CrPC and awarded final maintenance of ₹15,000/- per month each to Respondent Nos. 2 and 3.

13. Aggrieved by the impugned judgment the petitioner has preferred the present revision petition.

14. The learned counsel for the petitioner presses the present petition on a limited aspect and submits that the learned Family Court erred by awarding the maintenance payable to Respondent Nos. 2 and 3 from the date of filing the petition and ought to have awarded the same from the date of order.

15. He submits that the learned Family Court failed to appreciate the fact that at the time of filing the petition the income of the petitioner was assessed at ₹63,456/- per month. However, subsequently at the time of passing of the impugned judgment the income of the petitioner increased to ₹93,000/- per



month.

16. *Per contra*, the learned counsel for the respondents vehemently opposes the arguments raised by the learned counsel for the petitioner and consequently prays that the present petition be dismissed.

17. I have heard the learned counsel for the parties and perused the record.

Analysis

18. At the outset, it is well settled that the object of granting maintenance is to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support. The Hon'ble Apex Court in ***Chaturbhuj v. Sita Bai : (2008) 2 SCC 316***, has observed as under:

*“6. The object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support. The phrase “unable to maintain herself” in the instant case would mean that means available to the deserted wife while she was living with her husband and would not take within itself the efforts made by the wife after desertion to survive somehow. Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in Captain Ramesh Chander Kaushal v. Veena Kaushal [(1978) 4 SCC 70 : 1978 SCC (Cri) 508 : AIR 1978 SC 1807] falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It 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. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves.** The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat [(2005) 3 SCC 636 : 2005 SCC (Cri) 787 : (2005) 2 Supreme 503] .*

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In an illustrative case where the wife was surviving by



*begging, it would not amount to her ability to maintain herself. It can also be not said that the wife has been capable of earning but she was not making an effort to earn. **Whether the deserted wife was unable to maintain herself, has to be decided on the basis of the material placed on record. Where the personal income of the wife is insufficient she can claim maintenance under Section 125 CrPC. The test is whether the wife is in a position to maintain herself in the way she was used to in the place of her husband. In Bhagwan Dutt v. Kamla Devi [(1975) 2 SCC 386 : 1975 SCC (Cri) 563 : AIR 1975 SC 83] it was observed that the wife should be in a position to maintain a standard of living which is neither luxurious nor penurious but what is consistent with status of a family. The expression “unable to maintain herself” does not mean that the wife must be absolutely destitute before she can apply for maintenance under Section 125 CrPC.”***

(emphasis supplied)

19. In the present case, it is undisputed that at the time of awarding interim maintenance to Respondent Nos. 2 and 3, the learned Family Court assessed the income of the petitioner at ₹63,456/- per month and thereby awarded interim maintenance of ₹10,000/- per month each to Respondent Nos. 2 and 3 till the final disposal of the case.

20. Subsequently, at the time of passing the impugned judgment the learned Family Court noted that the income of the petitioner had enhanced during the pendency of the proceedings, whereafter, the learned Family Court assessed the income of the petitioner at ₹93,000/- per month and after appreciating the evidence on record, allowed the petition filed by Respondent No. 2 under Section 125 of the CrPC and thereby awarded maintenance of ₹15,000/- per month each to Respondent Nos. 2 and 3.

21. It is the contention of the learned counsel for the petitioner that the learned Family Court ought to have awarded the enhanced maintenance from the date of order instead from the



date of filing of the petition.

22. I find merit in the contention raised by the petitioner. A person cannot be saddled with liability to pay an amount from a retrospective date when the said amount is decided on the basis of his income of the current date.

23. A Co-ordinate Bench of this Court in **Sarita Bakshi v. State & Anr. : 2022 SCC OnLine Del 1707** while awarding maintenance when the income of the husband increased during the pendency of the proceedings held that the maintenance amount ought to be awarded from the date when the enhanced salary was first received by the husband. The relevant portion of the judgment is reproduced hereunder:

“In these circumstances, in my opinion, ends of justice will be met in case the amount of maintenance is enhanced from Rs. 6,000/- to Rs.7,500/- per month from the date on which the respondent received his first enhanced salary, which according to the learned Trial Court is February, 2018 and has not been disputed either by the petitioner or by the respondent.”

24. From a perusal of the record, it can be seen that the petitioner's income increased from ₹63,456/- per month to ₹93,000/- per month during the pendency of the proceedings. However, it is undisputed that the petitioner received his enhanced income of ₹93,000/- per month for the first time in April 2021.

25. Petitioner has not disputed his duty to pay the maintenance and has filed the present petition on the limited ground as noted above. Therefore, in the light of the judgment passed by this Court in **Sarita Bakshi v. State & Anr. (supra)**, this Court is of the opinion that, the learned Family Court ought to have awarded



the maintenance amount from the period when the petitioner initially received his enhanced income which is April 2021.

26. In view of the aforesaid discussion, the impugned judgment is modified to the extent that the petitioner is directed to pay maintenance of ₹15,000/- per month each to Respondent Nos. 2 and 3 from April 2021 till the respondents are eligible for the same.

27. The present petition is disposed of, in the aforesaid terms. Pending Application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 9, 2025

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