

04.02.2026
Court No. 06
Item No. 03
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 3827 of 2025

Debabrata Pal
-Versus-

Chandrima Das

Mr. Dibyayan Banerjee,
Mr. Shraban Banerjee
.....for the petitioner

- 1) The petitioner is aggrieved by an order dated August 18, 2025 passed by the learned Additional District Judge, 7th Court at Alipore, District – 24 Parganas (South) in Misc. Case No. 271 of 2019. The misc. case arose out of Matrimonial Suit No. 1377 of 2019.
- 2) The petitioner is the husband. He is aggrieved by the quantum of maintenance pendent lite to the tune of Rs. 30,000/-, which has been awarded to the wife, from the date of filing of the application under Section 24 of the Hindu Marriage Act. The learned Court also recorded that the said amount shall be adjusted with any other amount that may be awarded towards maintenance, in any other judicial proceeding.
- 3) The husband is aggrieved on various grounds. It is urged that, in the cross-examination the wife had admitted that she had expenses of Rs. 50,000/- per month, which she bears from her own income. This fact was totally ignored by the court. The Court failed to

consider that the take home salary of the husband was Rs. 77,633/- and his parents were dependent on him. He had to pay a sum of Rs. 19,738/- per month towards EMI. On the other hand, the wife was a highly educated lady and she was capable of maintaining herself. The Court had erroneously directed payment of maintenance from the date of filing of the application.

4) I have considered the order impugned. It appears that the learned Court had considered the affidavit of assets, income and expenditure statement and the decision of the Hon'ble Apex Court in the matter of **Rajnish Vs. Neha** reported in **(2021) 2 SCC 324**. The parameters laid down by the Hon'ble Apex Court were considered.

5) It appears from the affidavit filed by the wife that she had a Diploma in Senior Teacher's Training, Diploma in Pre-Primary Teacher's Training and was a certified agent of the LIC. Her general monthly expense was Rs. 50,000/- approximately. The wife disclosed her annual net income to the tune of Rs. 3,75,000/-. The Income Tax returns were also submitted before the Court. The husband/petitioner filed his affidavit of assets, income and expenditure statements and the bank statements. The income of the husband was calculated from the documents disclosed by him.

6) The husband is employed in the I.T. Industry and he has a monthly income of Rs. 1,41,338/-. The Court recorded that the husband disclosed that he has deductions from his gross income to the tune of Rs. 40,993/-

per month and he had to bear income tax liability to the tune of Rs. 33,257/- per month. Therefore, the Court held that the total maintenance pendente lite payable to the wife every month should be Rs. 30,000/- and Rs. 16,000/- which had been granted in another proceeding shall be adjusted with the same.

7) The average income of the wife for the last three years was found to be Rs. 3,45,000/- per annum as per the I.T. returns. On the other hand, the Court found that the average income of the husband was Rs. 19 lakhs per annum taking into account income disclosed in the I.T. returns. The Court compared the average monthly income of the wife which was approximately Rs. 28,750/- with the average monthly income of the husband which was Rs. 1,58,000/-.

8) Considering the disparity in the income of the parties and the fact that the wife was entitled to enjoy the same status and dignified standard of living as the husband, the sum was awarded. The wife specifically contended that her monthly income was more than Rs. 50,000/- per month. The Court was of the view that Rs. 30,000/- should be paid to the wife upon consideration of all the requirements of the wife.

9) The wife must enjoy the same standard of living as the husband. The husband works in the I.T. Industry and the Court found that the average annual income of the husband was Rs. 19 lakhs, which came to around Rs. 1,50,000/- per month. The Court held that the income of the wife was insufficient and as such the Court

balanced the disparity, by awarding a sum of Rs. 30,000/- per month towards alimony pendente lite. Maintenance pendent lite must be paid from the date of filing of the application and not from the date of the order as submitted by the petitioner. The Hon'ble Apex Court in ***Rajnesh v. Neha (supra)***, discussed the criteria for determining quantum of maintenance. The relevant paragraphs are as follows:-

“77. The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

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79. In *Manish Jain v. Akanksha Jain* [Manish Jain v. Akanksha Jain, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual

situations; the court should mould the claim for maintenance based on various factors brought before it.

80. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications. [Reema Salkan v. Sumer Singh Salkan, (2019) 12 SCC 303 : (2018) 5 SCC (Civ) 596 : (2019) 4 SCC (Cri) 339]

81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for

the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.”

10) Reference is also made to the decision of the Apex Court in ***Rajneesh (supra)***, on the issue that maintenance is payable from the date of the application.

“(a) From the date of application

96. The view that maintenance ought to be granted from the date when the application was made, is based on the rationale that the primary object of maintenance laws is to protect a deserted wife and dependent children from destitution and vagrancy. If maintenance is not paid from the date of application, the party seeking maintenance would be deprived of sustenance, owing to the time taken for disposal of the application, which often runs into several years.

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100. The law governing payment of maintenance under Section 125 CrPC from the date of application, was extended to HAMA by the Allahabad High Court in *Ganga Prasad Srivastava v. Addl. District Judge, Gonda* [Ganga Prasad Srivastava v. Addl. District Judge, Gonda, 2019 SCC OnLine All 5428 : (2019) 6 ADJ 850] . The Court held that the date of application should always be regarded as the starting point for payment of maintenance. The Court was considering a suit for maintenance under Section 18 of the HAMA, wherein the Civil Judge directed that maintenance be paid from the date of judgment. The High Court held that the normal inference should be that the order of maintenance would be effective from the date of application. A party seeking maintenance would otherwise

be deprived of maintenance due to the delay in disposal of the application, which may arise due to paucity of time of the court, or on account of the conduct of one of the parties. In this case, there was a delay of seven years in disposing of the suit, and the wife could not be made to starve till such time. The wife was held to be entitled to maintenance from the date of application/suit.

101. The Delhi High Court in *Lavlesh Shukla v. Rukmani* [*Lavlesh Shukla v. Rukmani*, 2019 SCC OnLine Del 11709] held that where the wife is unemployed and is incurring expenses towards maintaining herself and the minor child/children, she is entitled to receive maintenance from the date of application. Maintenance is awarded to a wife to overcome the financial crunch, which occurs on account of her separation from her husband. It is neither a matter of favour to the wife, nor any charity done by the husband.

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111. The rationale of granting maintenance from the date of application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband. Financial constraints of a dependent spouse hamper their capacity to be effectively represented before the court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the court concerned.

112. In *Badshah v. Urmila Badshah Godse* [*Badshah v. Urmila Badshah Godse*, (2014) 1 SCC 188 : (2014) 1 SCC (Civ) 51] , the Supreme Court was considering the interpretation of Section 125 CrPC. The Court held : (SCC p. 196, para 13)

“13.3. ... purposive interpretation needs to be given to the provisions of Section

125 CrPC. *While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve “social justice” which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society.”*

113. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all courts, by directing that maintenance be awarded from the date on which the application was made before the court concerned. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.

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131. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B — IV above.”

11) Under such circumstances, this Court finds no illegality or irregularity in the order impugned. Accordingly, the revisional application is dismissed without any order as to costs.

12) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)