



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

**CRR(F)-902-2024 (O&M)  
Date of Decision:-08.04.2025**

Sanjeev Kumar

.....Petitioner

Versus

Vinita and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Mr. Himanshu Munjal, Advocate for the petitioner.

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**JASGURPREET SINGH PURI J.(Oral)**

**CRM-27985-2024**

The present application has been filed under Section 5 of the Limitation Act read with Section 482 of the Code of Criminal Procedure for condonation of delay of 09 days in filing of the present revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 09 days in filing the present revision petition, is hereby condoned.

Application stands disposed of.

**Main case**

1. The present is a criminal revision petition filed by the petitioner-husband against the impugned order dated 02.04.2024 passed by learned Additional Principal Judge, Family Court, Camp Court, Sub-Division



Bilaspur, District Yamuna Nagar whereby an interim maintenance of Rs.2500/- each has been fixed for respondent No.1-wife and respondent-2/minor child totalling Rs.5000/- per month.

2. Learned counsel appearing on behalf of the petitioner submitted that marriage between the petitioner and respondent No.1 took place on 30.06.2020 and out of the wedlock one son i.e. respondent No.2 was born on 05.08.2021. He submitted that as per the affidavits filed regarding declaration of assets and liabilities in terms of the judgment of Hon'ble Supreme Court in ***Rajnish v. Neha, 2021 (2) SCC 324***, respondent No.1-wife is shown to be having no source of income. However, in fact she is earning some income from tailoring work and from a beauty parlour, although the same has neither been proved on record nor has any evidence regarding the same been produced because the petition under Section 125 Cr.P.C. is yet to be decided. He also submitted that so far as respondent No.2-child is concerned, he is under the care and custody of respondent No.1-wife. As far as the petitioner-husband is concerned, he submitted that as per his own affidavit, his income has been shown to be Rs.8,000/- per month as he is doing labour work and therefore, the fixation of interim maintenance amounting to Rs.5,000/- per month in favour of respondent No.1-wife and respondent No.2-minor child is liable to be set aside.

3. I have heard the learned counsel for the petitioner.

4. Some of the facts of the present case are not in dispute, such as the fact that the petitioner and respondent No.1 are legally wedded spouses and out of the wedlock respondent No.2–minor son was born, who is under the care and custody of respondent No.1–wife. As per the affidavit filed by



the petitioner, he has shown his income to be Rs. 8,000/- per month, and as per the affidavit filed by respondent-wife, her income has been shown to be 'nil'. It is the case of the learned counsel for the petitioner that respondent No.1-wife is engaged in some tailoring work and that is her source of income, but neither was anything proved before learned Principal Judge, Family Court, Sub-Division Bilaspur, Yamuna Nagar, nor has anything been placed on record in the present petition in support of the same. Even otherwise, the main petition filed under Section 125 Cr.P.C. is still pending and the petitioner has approached this Court challenging the order by which only interim maintenance has been granted to the tune of Rs. 5,000/- per month, i.e. Rs.2,500/- per month for respondent No.1-wife and Rs. 2,500/- per month for respondent No.2-minor child.

5. Learned Additional Principal Judge, Family Court, Camp Court, Sub-Division Bilaspur, District Yamuna Nagar, on the basis of the aforesaid affidavits and for the purpose of deciding the grant of interim maintenance, has awarded a total amount of Rs.5,000/-per month. The argument raised by learned counsel for the petitioner that out of his total income of Rs.8,000/-per month, the petitioner is not able to pay the aforesaid amount of Rs.5,000/-, is not only unsustainable but also contrary to the law laid down by Hon'ble Supreme Court. Hon'ble Supreme Court in **Anju Garg & Anr. V. Deepak Kumar Garg, 2022 SCC Online SC 1314**. The relevant portion of the aforesaid judgment in the case of **Anju Garg's (supra)** 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 [Chaturbhuj vs, Sita Bai](#)<sup>2</sup>, 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*

6. The obligation of the husband to maintain his wife, especially when she is not earning and his minor child is not only a statutory legal obligation and liability but also a moral, social, and economic responsibility. Even if, assumingly, the income of the petitioner is only Rs. 8,000/- per month, he is stated to be an educated and able-bodied person and is therefore required to do more work and earn additional income and thereafter fulfill his duty to maintain his wife and child who have no source of income.

7. This Court would therefore consider the present revision petition from two different aspects. Firstly, as to whether the petitioner is liable to pay the aforesaid interim maintenance as fixed by the learned trial Court. Secondly, whether in the facts and circumstances, which are otherwise to some extent admitted, was it desirable for the petitioner to have filed the present revision petition at the drop of a hat, thereby challenging the grant



of interim maintenance or not.

8. While dealing with the first aspect, the aforesaid facts and circumstances, *ex facie* suggest that the income of the petitioner, even if taken to be Rs.8,000/- per month as per his own affidavit and the fact that respondent No.1-wife has no source of income as per her affidavit and the minor child, who is of the age of 3½ years, is under the care and custody of respondent No.1-wife and would therefore soon be ready to attend school, it cannot be said by any stretch of imagination that the aforesaid amount of Rs.5,000/- (i.e. Rs.2,500/- per month for respondent No.1-wife and Rs.2,500/- per month for respondent No.2-minor child) has been erroneously fixed or is on the higher side. Not only under the provision of Section 125 Cr.P.C., but in view of the settled law, it is a statutory and legal obligation of the petitioner to maintain his wife who has no source of income and the minor child who is under the care and custody of respondent No.1-wife. This Court is rather of the view that considering the rising prices, inflationary tendencies and the fact that the child is now ready to go to school, even the aforesaid amount of Rs.2,500/- per month for the child appears to be on the lower side. However, this Court would not make any specific observation with regard to fixation of maintenance as the same is to be decided at the time of final adjudication of the petition filed under Section 125 Cr.P.C. Therefore, the order passed by Additional Principal Judge, Family Court, Camp Court, Sub-Division Bilaspur, District Yamuna Nagar, regarding the fixation of interim maintenance cannot be faulted as there is no illegality or perversity in the same.

9. So far as the second aspect is concerned whether, in the aforesaid



facts and circumstances where the petitioner as per his affidavit is earning Rs.8,000/- per month and respondent No.1-wife, as per her affidavit has no source of income and has the care and custody of a 3½ years old child, the petitioner ought to have filed the present revision petition and if yes, then whether filing the same would amount to perpetuating the litigation by filing a vexatious revision petition before this Court or not, coupled with the fact that the scope of a revision petition is very limited. The aforesaid facts and circumstances suggest that the petitioner has not only filed a vexatious petition before this Court by challenging the order vide which only interim maintenance has been granted, but has also perpetuated the litigation by filing the present petition at the drop of a hat. It is inconceivable that a lady who has no source of income and is looking after a minor child, receiving a total interim maintenance of Rs.2500/- + Rs.2500/- per month can by any stretch of imagination, be said to be arbitrary or illegal, even if assumingly, the husband has no source of income in view of the aforesaid judgment of Hon'ble Supreme Court in **Anju Garg's case (supra)**. In other words, even if the petitioner who is the husband and an able-bodied man having no source of income it is still his legal, statutory, moral, economic and social obligation to maintain his wife and child so that they can at least live their lives and make their both ends meet.

10. In view of the aforesaid facts and circumstances, the present petition is hereby dismissed with costs of Rs.10,000/-. The petitioner is hereby directed to deposit the aforesaid costs before the Court of learned Principal Judge, Family Court, Camp Court, Sub-Division Bilaspur,



District Yamuna Nagar, within a period of three months from today. On his depositing the aforesaid costs, the learned Family Court shall transmit the same to respondent-wife forthwith. The learned Family Court shall ensure that the aforesaid costs are deposited by the petitioner within the aforesaid stipulated period and in case the same is not done then the learned Family Court shall recover the same from the petitioner in accordance with law. In case the aforesaid amount of costs is still not deposited by the petitioner then learned Family Court shall send a report to this Court and on receipt of the same, the Registry of this Court shall list this case before this Court.

11. Miscellaneous application(s), if any, shall also stand disposed of since the main case has been dismissed.

**(JASGURPREET SINGH PURI)**  
**JUDGE**

**08.04.2025**

*shweta*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No