



CRR(F)-331-2015

-1-

224

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

\*\*\*

**CRR(F)-331-2015  
Date of Decision: 02.07.2025**

Sunita and another

..... Petitioners

Versus

Ramesh

..... Respondent

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

Present: Mr. Jagjeet Beniwal, Advocate for the petitioners.

Mr. R.S. Panghal, Advocate for the respondent.

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**JASGURPREET SINGH PURI, J. (ORAL)**

1. The present revision petition has been filed impugning the order dated 31.10.2015 passed by learned District Judge, Family Court, Bhiwani vide which a petition under Section 125 of the Code of Criminal Procedure filed by the petitioners was allowed and they have been awarded a total amount of ₹3,500/- per month as maintenance i.e. ₹2,000/- per month to petitioner No.1/wife and ₹1,500/- per month to petitioner No.2/son. The present revision petition has been filed by petitioners i.e. the wife and the minor son for enhancement of the aforesaid quantum of maintenance.

2. Learned counsel for the petitioners submitted that the marriage between petitioner No.1/wife and the respondent/husband was solemnized on 02.07.1998 and out of the wedlock one male child i.e. petitioner no. 2 who is a minor was born on 23.06.2009. He further submitted that when the petition under Section 125 Cr.P.C. was filed before learned Family Court in the year 2014, the age of the minor was about 5 years and he is in the care and custody of petitioner No.1 regarding which there is no dispute. He also submitted that a female child was also born out of the said wedlock, who



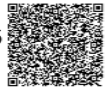
**CRR(F)-331-2015**

**-2-**

was living with the respondent/husband and has now got married.

3. Learned counsel for the petitioners further submitted that in the year 2010, petitioner No.1/wife was turned out of the matrimonial home by the respondent/husband after giving merciless beatings and since then she has been residing at her parental home. Thereafter, lots of efforts were made for the purpose of resolving their dispute but all the efforts failed and in this way petitioner No.1/wife has been living separately from the respondent/husband since the year 2010 when petitioner No.2/son was about one year old and now for almost last 15 years she has been taking care of petitioner No.2/son.

4. Learned counsel for the petitioners also submitted that only a meager amount of ₹3,500/- per month in total has been awarded as maintenance to both the petitioners i.e. ₹2000/- per month has been granted to petitioner No.1/wife and ₹1,500/- per month to petitioner No.2/minor son whereas respondent/husband has been earning a handsome amount of money which petitioner No.1/wife had so pleaded before learned Family Court that the respondent/husband is earning an amount of ₹30,000/- per month as he was a driver of an oil tanker and his family was also owning 8 acres of land from where the family including the respondent/husband is getting a handsome income and the respondent/husband is also an able bodied man and is responsible and liable for maintaining the petitioners statutorily, morally, socially and economically but he has failed to do so and therefore, the petitioners are entitled for at least a reasonable amount of maintenance to make their both ends meet for the purpose of their livelihood and a lot of expenditure is being incurred by petitioner No.1/wife for the education of petitioner No.2/son, who is now a grown up child although is still a minor



**CRR(F)-331-2015**

**-3-**

as of today.

5. Learned counsel for the petitioners further submitted that so far as petitioner No.1/wife is concerned, she has no source of income at all and is not working anywhere although it was alleged by the respondent/husband that she was doing some sewing work but there is neither anything on record to show the same nor it has been proved by the respondent/husband that the petitioner No.1/wife was having any source of income. He submitted that once petitioner No.1/wife was having no source of income at all and has been turned out from matrimonial house way back in the year 2010 along with her son, who was of the age of an year at that point of time, she was entitled for at least some reasonable amount of maintenance but the maintenance which has been awarded to her and the son by learned Family Court is a meager amount of ₹3,500/- per month in total which is segregated into maintenance for petitioner No.1/wife to the tune of ₹2,000/- per month and ₹1,500/- per month to petitioner No.2/son.

6. Learned counsel for the petitioners submitted that it is a settled law that if a husband is an able bodied man and the wife is not earning then he is liable to maintain the wife and minor children when they are in the care and custody of the wife. He also submitted that it is also a settled law that even if the husband is not working but he is an able bodied man then he has to maintain the wife and children by even doing some labour work etc. Therefore, in the present case, considering the facts and circumstances where the respondent/husband is an able bodied person and is earning an amount ₹30,000/- per month, he is liable to maintain both the petitioners in a reasonable manner but the quantum of maintenance which has been fixed by learned Family Court is on the lesser side and it will not make their both



**CRR(F)-331-2015**

**-4-**

ends meet considering the cost of living and inflationary tendencies in today's era and also considering the education and medical expenses. Therefore, the aforesaid amount of maintenance be modified and enhanced to a total amount of ₹10,000/- per month for each petitioner.

7. On the other hand, learned counsel for the respondent/husband has submitted that so far as the relationship between petitioner No.1/wife and the respondent/husband is concerned, the same is not in dispute and it is also not in dispute that petitioner No.2/son was born out of the wedlock who is in the care and custody of petitioner No.1/wife right from the beginning. He however submitted that petitioner No.1/wife has left her matrimonial home of her own accord and without any reasonable excuse and thereafter, she filed a petition under Section 125 Cr.P.C. for grant of maintenance. He also submitted that during the pendency of the present petition, the matter was sent to the Mediation and Conciliation Centre of this Court and the matter was rather amicably settled between the parties with the consent of petitioner No.1 but thereafter, she retracted from the aforesaid compromise herself and therefore, she is not entitled for grant of enhancement of the maintenance. He further submitted that the respondent/husband is not disputing the fact that he is liable to pay maintenance but he is disputing the enhancement/modification of the aforesaid maintenance because the respondent/husband has been paying the aforesaid maintenance to the petitioners and considering the income of the respondent/husband, the petitioners are not entitled for enhancement of the maintenance.

8. On the quantum of maintenance, learned counsel for the respondent/husband submitted that petitioner No.1/wife has wrongly so alleged that the respondent/husband is having 8 acres agriculture land

**CRR(F)-331-2015****-5-**

whereas in fact the father of the respondent was the owner of the land even as per the *Jamabandi* (Exhibit P-1) and so far as the respondent/husband is concerned, he owns only 1 acre of land. He further submitted that so far as the allegation of petitioner No.1/wife that the respondent was the owner of a truck/tanker from where he was deriving income is concerned, the same was also incorrect and it was never proved on record that he was the owner of the truck and he was only a driver of the truck/tanker and his income out of the aforesaid was only ₹6,000/- per month and the maintenance which has been granted is ₹3,500/- per month out of his total income of ₹6,000/- per month which is more than even 50% of the total income of the respondent and therefore, no ground is made out for the enhancement of the maintenance.

9. Learned counsel for the respondent further submitted that after the compromise effected between the parties, now both the petitioners are residing in the same house as that of the respondent/husband and therefore, even otherwise also, there is no ground for enhancement of the maintenance and the present revision petition is liable to be dismissed.

10. At this stage, learned counsel for the petitioners submitted that he has specific instructions to state that both the petitioners i.e. the wife and minor son are not residing with the respondent/husband and rather from the year 2010, when she was turned out from the matrimonial home by the respondent/husband, petitioner No.1/wife has been residing in her parental house along with her minor son. He also submitted that although various efforts were made by the respectables and also before the Mediation and Conciliation Centre to settle their dispute but the efforts did not prove to be fruitful. With regard to the settlement which was arrived at between petitioner No.1 and the respondent before the Mediation and Conciliation



**CRR(F)-331-2015**

**-6-**

Centre of this Court, he submitted that thereafter in pursuance of the aforesaid settlement being arrived at between the parties, the respondent/husband came to the house of petitioner No.1/wife for taking her back in the matrimonial home but he had come in a drunk condition and was under intoxication and his behavior was extremely rude and therefore, petitioner No.1 did not accompany him to the matrimonial home and in this way, the entire settlement which was arrived at between the parties before the Mediation and Conciliation Centre failed and that itself cannot become a ground for denial of enhancement of the maintenance to the petitioners considering the totality of the facts and circumstances of the present case.

11. I have heard the learned counsels for the parties and has also perused the trial Court record.

12. The marriage between petitioner No.1 and the respondent is not in dispute and it is also not in dispute that petitioner No.2 is the minor son born out of the said wedlock and right from the beginning he is residing and is in the care and custody of petitioner No.1. It is also not in dispute that there was one female child born out of the said wedlock who has since been married and was residing with the respondent/husband. So far as petitioner No.1/wife is concerned, she is having no source of income and nothing has been proved on record by the respondent/husband before learned Family Court to the effect that she has been earning any income. So far as the respondent/husband is concerned, learned counsel for the respondent has so stated that he was not the owner of the truck/tanker but he was only a driver and was drawing a salary of ₹6,000/- per month only. He also stated that the respondent is not the owner of 8 acres of land but he owns only 1 acre of land because the remaining land is in the ownership of his father and not of



**CRR(F)-331-2015**

**-7-**

the respondent.

13. The present is a revision petition which is pending before this Court from the year 2015 i.e. from 10 long years wherein the dispute is with regard to the quantum of maintenance which has been fixed by the learned Family Court to the tune of ₹3,500/- per month in total i.e. ₹2,000/- per month to petitioner No.1/wife and ₹1,500/- per month to petitioner No.2/son. The minor son is stated to be of the age of about 16 year and the care and custody of the minor child is with petitioner No.1/wife is also not in dispute.

14. The issue involved in the present case is only with regard to quantum of maintenance because even as per the learned counsel for the respondent/husband, he has been paying the amount of maintenance which has been awarded to both the petitioners by learned Family Court. A perusal of the impugned order would show that at the time when the petition under Section 125 Cr.P.C. was filed and an interim maintenance was granted vide order dated 23.04.2015 to the tune of ₹3,500/- per month in total i.e. ₹2,000/- per month to petitioner No.1/wife and ₹1,500/- per month to petitioner No.2/son and thereafter, when the present impugned order was passed the same amount of maintenance has been so granted to the petitioners by learned Family Court, regarding which, the petitioners have filed the present petition for enhancement of the same.

15. The law with regard to the liability of the husband to maintain the wife and children is no longer *res integra*. The right flows from the statutory provision of Section 125 Cr.P.C. and the same has been considered in detail by various judgments of Hon'ble Supreme Court. In "*Anju Garg Vs. Deepak Kumar Garg*", 2022 SCC Online SC 1314, Hon'ble Supreme

**CRR(F)-331-2015****-8-**

Court dealt with this issue that when the husband is having very low income but at the same time, he is an able bodied man then the statutory rights of the wife and children cannot be defeated only on the ground that the husband is earning less. It was also observed that when the husband is an able bodied man, then he has to work more and even at the cost of doing some labour work for the purpose of increasing his income and thereafter to maintain the wife and the children. Although there can be no straight jacket formula for the purpose of fixing the quantum of maintenance but for each and every case, the facts and circumstances of the same has to be seen so as to arrive at a just and equitable fixation of quantum of maintenance if the wife is not earning anything. At the same time, one of the important parameters for the purpose of fixation of maintenance or the quantum of maintenance, the income of the wife and the status of the parties is also to be seen. In the present case, there is no dispute that petitioner No.1/wife was not having any source of income and was not earning anything and at the same time she is having the care and custody of a minor son, who at the time of filing of the petition was about 5 years of age and as of today is of 16 years of age and is still a minor. The relevant para 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 Chaturbhuj 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.”*

16. So far as the argument raised by learned counsel for the respondent/husband that after having arrived at a settlement/agreement before the Mediation and Conciliation Centre of this Court, petitioner No.1/wife retracted from the same and therefore, is not entitled for the enhancement of the maintenance is concerned, the same cannot be accepted in view of the fact that in such a settlement it was so settled that the wife will now start living with the husband whereas it was the case of the petitioner/wife that after the settlement was arrived at, the husband had come to their house for taking her and the son back but he was in a state of intoxication and was also behaving rudely. Therefore, she did not accompany him to the matrimonial home. It was the argument of the learned counsel for the respondent that now both petitioner No.1/wife and the respondent/husband are staying together in the same house of the respondent/husband which has been specifically and categorically denied by the learned counsel for the petitioners on instructions.

**CRR(F)-331-2015****-10-**

17. This Court would therefore not go into this issue as to whether the parties are residing together or not because of the opposite stands which have been taken by the learned counsels for the parties. However, this Court would consider as to whether the quantum of maintenance granted even in the year 2015 was just and reasonable or not. Once it has come on record that petitioner No.1/wife was not working and was not having any source of income and is also having the care and custody of a minor son who at the time of the filing of the petition under Section 125 Cr.P.C. was 5 years of age, then the cost of living of both mother and minor son, education expenses, medical expenses etc. or the aforesaid factors are not only the relevant factors but also paramount for the purpose of considering the quantum of maintenance. In today's age, an amount of ₹1,500/- per month for a minor child of the age of only 5 years at the time of filing of the petition under Section 125 Cr.P.C. and even thereafter, cannot be said to be a reasonable amount. The cost of education, the cost of living and various multiple miscellaneous expenditures in today's world are on a higher side and therefore, by no stretch of imagination it can be said that even in the year 2015, the aforesaid amount of ₹1,500/- per month for a small minor child was a reasonable amount. So far as the maintenance of petitioner No.1/wife is concerned, she was not having any source of income. Her maintenance has been fixed at the rate of ₹2,000/- per month. So far as this quantum of maintenance even for petitioner No.1/wife to the tune of ₹2,000/- per month even in the year 2015 is concerned, the same also cannot be said to be a reasonable amount of maintenance considering the aforesaid parameters in today's time. In other words, by no stretch of imagination it can be said that a total amount of ₹3,500/- per month for a mother and a

**CRR(F)-331-2015****-11-**

minor child who do not have any source of income is on the reasonable side. So far as the argument raised by learned counsel for the respondent that his income was only ₹6,000/- per month deserves to be rejected in view of the aforesaid law laid down by Hon'ble Supreme Court that even if the income of the respondent/husband is less, it is not only his duty but is statutorily liable to pay a reasonable amount of maintenance to the wife and minor children even by doing any other extra job including labour and it is his duty to increase and enhance his own income and thereafter to maintain the wife and children.

18. In view of the aforesaid totality of the facts and circumstances, the present revision petition is allowed. The amount of maintenance which was granted by learned District Judge, Family Court, Bhiwani is hereby modified and enhanced to an amount of ₹3,000/- per month for petitioner No.1/wife and ₹3,500/- per month for petitioner No.2/son from the date of filing of the petition under Section 125 Cr.P.C. before learned Family Court. There shall be no order as to costs.

**02.07.2025***Bhumika***(JASGURPREET SINGH PURI)  
JUDGE**

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