



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

142

CRM-M-24229-2025(O&M)

Date of Decision: 05.05.2025

SAHIL GUGLANI

...Petitioner(s)

Versus

DIVYA @ DIVYA KHANNA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Navmohit Singh, Advocate for the petitioner.

KIRTI SINGH, J. (Oral)

The present petition has been filed for setting aside the order dated 01.04.2025 passed by the learned Judicial Magistrate First Class, Kaithal, in proceedings under the Protection of Women from Domestic Violence Act, 2005 (COMA/142/2023), whereby the respondent-wife was granted interim maintenance of ₹50,000 per month, ₹10,000 per month towards separate residence, and a lump sum amount of ₹5,00,000 for medical treatment (Annexure P-1); as well as for setting aside the order dated 21.04.2025 passed by the learned Additional District Judge, Kaithal, dismissing the petitioner's application for stay of the aforesaid interim order (Annexure P-2); and further for setting aside the order dated 25.04.2025 passed by the Learned Additional District Judge, Kaithal, whereby the petitioner's review application was dismissed (Annexure P-3).

2. The brief facts of the case are that the marriage between the petitioner and the respondent was solemnized on 09.05.2022 according to the Hindu rites and ceremonies. Matrimonial disputes ensued between the couple and the respondent filed a petition under the Domestic Violence Act,



levelling allegations of dowry demands, harassment and cruelty; wherein an application under Section 23 of the said Act for grant of interim maintenance allowance was also moved. The petitioner filed a reply and contested the claim made by the respondent. During the pendency of the said proceedings, the respondent-wife suffered acute abdominal pain and, which was as per the medical records on file diagnosed as cancer, likely malignant in nature, of ovarian origin with metastasis to the liver. A prayer was thereafter made seeking Rs.10 lakhs for medical treatment of the respondent. The learned Court below vide order dated 01.04.2025 granted interim maintenance of Rs.50,000/- per month along with Rs.10,000/- for separate residence, along with five lakh for medical treatment in favour of the respondent. The petitioner's application for stay and review of the said order were dismissed by the learned Additional District Judge, Kaithal, on 21.04.2025 and 25.04.2025 respectively. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

3. Learned counsel for the petitioner contends that the learned trial Court, has allowed the maintenance to the respondent on a very higher side. It is submitted that the trial Court granted a sum of ₹5,00,000 towards medical expenses, despite medical bills amounting to only ₹98,498. Further, the award of ₹10,000 per month as rent is also challenged on the ground that the respondent is residing with her parents, and in such circumstances, as held in a catena of judgments, she is not entitled to claim rent. In support of this contention, reliance is placed on the decisions of the Bombay High Court in "*Vaseem Fatema Hashmi Vs. Sayyad Akil 2018(1) HLR 661*" and "*Rajat Sharma Vs. Ruchi Sharma 2017(3) Crimes 171*".

4. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, this Court finds no force in the



arguments advanced by learned counsel for the petitioner. The present petition is decided *in limine* in order to save litigation cost of the respondent and also to save the judicial time of the Court.

5. Before adjudicating the present petition, it would be apposite to make a gainful reference to the provision of Section 20 of the Domestic Violence, Act which reads thus:

20. Monetary reliefs

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to, (a) the loss of earnings; (b) the medical expenses; (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed. (3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the Court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

6. Section 23 of the Domestic Violence, Act reads thus:

23. Power to grant interim and ex parte orders

(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

(2) If the Magistrate is satisfied that an application prima facie



discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

7. Further, Section 28 of the said Act provides that though proceedings under specific provisions of the Act would be governed by the Code of Criminal Procedure, however at the same time, the Court has power to lay down its own procedure for disposal of an application under Section 12 or under sub-section (2) of Section 23.

8. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in ***Rajesh v. Neha and another (2021) 2 SCC 324***, laid down the criteria for determining quantum of maintenance and issued the following directions:

VI Final Directions

130. *In view of the foregoing discussion as contained in Part B -1 to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:*

(a) Issue of overlapping jurisdiction

131. *To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:*

(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;

(ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;



(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding

(b) Payment of Interim Maintenance

132. The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.

(c) Criteria for determining the quantum of maintenance

133. For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B III of the judgment.

134. The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.

(d) Date from which maintenance is to be awarded

135. 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.

(e) Enforcement/Execution of orders of maintenance

136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI."

9. A perusal of the order dated 01.04.2025 passed by the learned Judicial Magistrate First Class, Kaithal makes it evident that the Court below, considering the material placed before it, observed that there existed a prima facie case against the husband for committing acts of domestic violence against the wife. After taking into account the admitted fact that the husband was receiving Rs.1,87,000/- per month as salary, and also given the



deteriorating health condition of the wife, who was undergoing treatment cancer which was ovarian in origin and spread over her liver also, the learned Court, in exercise of its powers ordered for the payment of Rs.50,000/- as interim maintenance and Rs.10,000/- as an amount for separate residence, besides also ordering the husband to pay Rs.5,00,000 towards medical expenses of the wife. Trite to say that the amount awarded as maintenance is not bounty but is a means of support awarded to the applicant. Further, this order was challenged in review, which also was dismissed by the learned Additional Sessions Judge vide order dated 25.04.2025. Learned counsel for the petitioner has not been able to indicate any perversity in the impugned orders which would warrant interference by this Court. Accordingly, the present petition is dismissed being bereft of any merit.

10. Pending miscellaneous application(s), if any, also stand(s) disposed of.

05.05.2025
Kavita Nain

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No