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

Sr. No.117

**CRR(F)-131-2025 (O&M)
Date of decision : 28.01.2025**

Gayatri @ Gaytri and another

..... Petitioners

VERSUS

Kulwant Singh

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Vikas Bishnoi, Advocate, for the petitioners.

KIRTI SINGH, J. (Oral)

1. The present petition has been preferred against order dated 17.12.2024 passed by learned Addl. Principal Judge, Family Court, Sirsa, under Section 125 of the Cr.P.C., whereby maintenance of Rs.4,000/- per month was awarded in favour of petitioner No.1 and Rs.6,000/- per month to petitioner No.2.

2. The brief facts of the case are that the marriage between the petitioner No.1 and the respondent was solemnised on 10.03.2015 according to the Hindu rites and ceremonies. A female child was born from this wedlock. The respondent and his family members were harassing petitioner No.1 for demand of dowry and the respondent refused to maintain the petitioners without any just cause and the petitioners filed a petition under Section 125 Cr.P.C. for seeking maintenance. The respondent filed a reply and contested the claim made by the petitioner(s). The learned Family Court vide order dated 17.12.2024 granted maintenance of meagre amount of Rs.4,000/- per month in favour of petitioner No.1 and Rs.6,000/- per month

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to petitioner No.2. Aggrieved by the same, the petitioners have approached this Court by filing the present petition.

3. Learned counsel for the petitioners submits that Court has fallen into error by awarding meager amount as maintenance to the petitioners. Learned counsel further submits that petitioner No.1 is a household lady and has no source of income to earn her livelihood and to maintain her minor child i.e. petitioner No.2. The respondent is working as ALM in Sub Division Babyal and his gross salary is Rs.44,820/-.

4. Having heard the learned counsel for the petitioners and after perusing the record with his able assistance, this Court finds no force in the arguments advanced by learned counsel for the petitioners. 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. Perusal of the record indicates that the respondent is earning gross salary of Rs.44,820/- and as per the ration of law laid down by the Hon'ble Supreme Court in **Kalyan Dey Chowdhary Vs. Rita Dey Chowdhary Nee Nandy AIR 2017 SC 2383** has held that awarding 25% of the husband's salary as maintenance to the wife would be just and proper.

6. The object and purpose behind granting maintenance is to ensure that the dependent spouse and children are not reduced to destitution or vagrancy on account of failure of marriage. At the same time, a just and careful balance must be struck to ensure that this provision does not degenerate into a weapon to punish the other spouse. The Courts are required to conduct the maintenance proceedings while being alive to the legislative intent behind the provision under Section 125 Cr.P.C in its true spirit, which is to provide speedy assistance and social justice to women,

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children and infirm parents. The provisions of Section 125 Cr.P.C. were enacted as a measure to further social justice and protect dependent women, children and parents, which also fall within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India.

7. A three-Judge Bench of the Hon'ble Supreme Court in ***Vimala (K.) v. Veeraswamy (K.) (1991) 2 SCC 375***, speaking through Justice Fatima Beevi, opined that as follows:

“3. Section 125 of the Code of Criminal Procedure 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.”

A two-Judge Bench of the Hon'ble Supreme Court in ***Kirtikant D. Vadodaria v. State of Gujarat (1996) 4 SCC 479***, speaking through Justice Faizan Uddin, opined as follows:

“15. ... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation.”

8. The rival claimants must scrupulously bring on record their actual respective earning capacities in order for the Court to arrive at

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quantum of maintenance which is just and fair in terms of principle of equistatus. The quantum of maintenance must be justifiable and realistic to provide succour to the dependent spouse and also to avoid occurrence of the two extremes of the maintenance being either paltry or extravagant, ensuring that neither of the two is reduced to a life of penury. The adequacy of the maintenance allowance has to be determined by the yardstick of the dependent spouse and children being able to lead a life of reasonable comfort.

9. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in ***Rajnesh 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

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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

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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."

10. A perusal of the impugned order passed by the learned Family Court makes it evident that the Court below has duly considered the material placed before it at the time of deciding the application for maintenance. The learned Court has rightly observed that the respondent-husband is working as ALM in Sub Division Babyal and his gross salary is Rs.44,820/-. It is trite law that an able bodied husband is legally and morally bound to maintain his wife. A careful and just balance has been drawn, keeping in view the spiraling inflation rates and high cost of living corresponding to the reasonable needs of the petitioners, the conduct of the respondent-husband and the fact that the petitioner No.2-minor daughter is residing with petitioner No.1. Learned counsel for the petitioners has not be able to indicate any perversity in the impugned judgment which warrants interference by this Court. Accordingly, the present petition is dismissed being bereft of any merit.

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

(KIRTI SINGH)
JUDGE

28.01.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No