

In the Court of Principal Judge, Family Court, Siwan
Present- Manoj Kumar-II, Principal Judge Family Court.
Maintenance Case No.- 99/2020

U/s 125 Cr.P.C

Page No.-1/10

1. Najma Khatoon, aged 29 years, W/o-Shahebzada @ Shahzaad.

2. Shazid Ali

3. Afzal Ali, both S/o-Shahebzada @ Shahzaad,

All R/o Village-Kudva, P.S.-Barhariya, District-Siwan, At present D/o-Samullah, Both R/o village-Rama Pali, P.S.-Siwan Mufassil, District-Siwan(Bihar), Pin code-841226, Mob. No.-9934682124.

.....**Petitioners**

V/s.

Shahebzada @ Shahzaad, aged 31 years, S/o-Rustam Miya, R/o Village-Kudva, P.S.-Barhariya, P.O.- Barhani, District-Siwan, Pin code-841227.

..... **Opposite Party**

Learned Counsel for the Plaintiff - Ld. Advocate Sri Abdul Kasim Ansari

Learned Counsel for the Respondent - Ld. Advocate Sri Ishtadeo Tiwari

Date of Order- 06.05.2026

ORDER

1. The present application u/s 125 of Code of Criminal Procedure is filed by the petitioner number 1- wife namely Najma Khatoon against opposite party - Shahebzada @ Shahzaad for getting of Rs. 25,000/- per month as maintenance for herself and her minor children(petitioner No.2 and petitioner No.3).
2. It is version of the petitioner no.1, that her marriage with the opposite party was solemnized on 26.06.2011, in accordance with Muslims rites and customs. After marriage, she came at her matrimonial home where the opposite party and his family members started demanding Rs.50,000/-as dowry and started pressurizing her. When the petitioner No.1 refused and stated that her father was not able to fulfill this demand. Then, the opposite party and his family members would beat her and torture her in various ways. Being fed up with the harassment made by the opposite party and his family members, the petitioner told her father about this. Her father and others came and tried to convince him, but there was no change in the behaviour of the opposite party and his family members. Out of this wedlock, two sons petitioner No.2 and petitioner No.3 were born who are 7 years and 5 years old respectively. But, there was no change in the opposite party's behaviour, the opposite party and his family members beat the petitioner and her sons, snatched all her belongings, and on 27.12.2017, they were ousted her from their house, saying that they will let them live in their house only when her father pays Rs.50,000/-. Since, then she along with her sons had been living at her parental home. In the meantime, Panchayatis were held several times with the help of relatives, but no positive result came out. The opposite party remained adamant on its demand of dowry. They also threatened to remarry of the opposite party to another girl, if demand is not fulfilled. The petitioner No.1 started living with her children at her parental home since 27.12.2017. The

Dated-06.05.2026

petitioner has also filed a case of Harassment against the opposite party and his family members, bearing Trial No.599/2020, which is currently pending before Shri Prashenjeet Singh, Judicial Magistrate, Siwan. The petitioner's father is also unemployed, he supports his family solely by engaging in various forms of manual labour, and no other members of the family do any job or employment. The petitioner No.1 herself is also unemployed. She supports herself and her children by performing manual labour in neighbouring households. Due to lack of money, she faces numerous hardships, often have to go to bed without any food, and she is unable to afford proper medical treatment for herself or her children when they fall ill. The petitioner is incapable of supporting herself and her children on her own, and owing to a severe lack of financial resources, she or her children may face untimely death. The opposite party works as an Argon Welder in Gujarat, earning a monthly income of approximately Rs.40,000/-, and he has 5 Bighas of agricultural land from which he earns Rs.1,00,000/- per annum. The opposite party knowingly and willfully fails to provide for the maintenance and support of the petitioner and her sons. Therefore, at last she prayed for granting Rs. 25,000/- per month as a maintenance of herself and their children (petitioner No.2 and petitioner No.3) from the O.P.

CASE OF OPPOSITE PARTY

3. The opposite party has filed his objection/reply and stating therein that the application filed by the petitioner is not maintainable as the petitioner has given false and incorrect facts before this court and has also suppressed and concealed the material facts from this court. The fact of the matter is that, in the year 2009, the opposite party was engaged in painting work as a manual labour on the upper floors of a building, during the course of work, he fell from a height, resulting in severe injury to his left leg and left hand. Opposite party has become disabled from his left leg. Despite this fact and with full knowledge, the petitioner's family members proceeded to perform the marriage rituals with the opposite party, the fact of which the petitioner herself was well aware. A Harassment case was deliberately filed in the court of Chief Judicial Magistrate, Siwan solely to harass the opposite party, whose bearing Complaint Case No.2551/2019 and it was being tried in the court of Shri Kunwar Birendra Singh, 1st Class Judicial Magistrate, Siwan. Subsequently, on 17.12.2022 following the conclusion of the trial, opposite party (the accused)-Shahebzada @ Shahzaad, was acquitted of all charges under Section 245 of the Code of Civil Procedure in connection with Trial No.325/2022. Opposite party admitted that he has two sons namely Sazid Ali and Afzal Ali. But, he deny the assertion that the opposite party physically assaulted the petitioner over a sum of Rs.50,000/-, ousted her

from the matrimonial home, and retained all her belongings, claiming it to be a false one. The opposite party has absolutely not subjected the petitioner to any form of harassment, nor has he issued any threats regarding a second marriage. On the contrary, the truth is that the opposite party is willing to support the petitioner and their children by earning a livelihood through a manual labour and keeping them under his care. The petitioner herself works as a cook at the Government School located in Rampalo village and earns an income by performing domestic chores in various households during the morning and evening hours. It is not true that the opposite party engaging in welding work, nor he generates a monthly income of Rs.40,000/-. The opposite party possesses no agricultural land for cultivation, rather his family comprising four brothers and have 10 Dhurs of land. The opposite party is willing to keep the petitioner and the children with him and is prepared to provide for their maintenance by working as a daily wage labourer. Despite being fully aware of this, the petitioner has filed a maintenance case with a false statement and false fact in the court with intention of harassing the opposite party. At last, he prayed to dismiss the petition filed under Section 125 Cr.P.C. by the petitioners.

ARGUMENT OF THE PETITIONER

4. Ld. counsel for the petitioner No.1 has submitted that the petitioner no.1 is wife of the opposite party. They have two children namely Sazid Ali and Afzal Ali, whose ages are 7 years old and 5 years respectively from this marriage. The opposite party has physically assaulted and ousted her from her matrimonial home due to non-fulfillment of demand of Rs.50,000/-. The opposite party was working as Argon Welder in Gujarat and earns an income of Rs.40,000/- per month. The opposite party has also 5 Bighas of land, from which he also earns Rs.1,00,000/- per annum. The opposite party has neglected her regarding household expenses, maintenance of child and all other basic necessities. The petitioner's father is unemployed, he supports his family solely by engaging in various forms of manual labour. The petitioner herself is also unemployed. She supports herself and her children by performing manual labour in neighbouring households. Due to lack of money, she faces numerous hardships, often having to go to bed hungry in the evenings, and is unable to afford proper medical treatment for herself or her children when they fall ill. The petitioner is incapable of supporting herself and her children on her own. She has been ousted from her matrimonial home on 27.12.2017. Thereafter, she along with her children has been living at her parental house. In the above facts, it is clear that the opposite party is able to maintain the petitioner No.1 and her children. So, he should be directed to pay maintenance to the petitioners Rs. 25,000/- per month.

ARGUMENT OF THE OPPOSITE PARTY

5. On the other hand, Ld. counsel for opposite party has submitted that the petitioner no.1 is wife of the opposite party and petitioner No.2 and petitioner No.3 are his sons, but petitioner no.1 was not treated with any kind of cruelty by the opposite party rather she has been living separate from the opposite party without any reason. The opposite party has never neglected or refused to maintain the petitioner or his minor sons at any point of time and he is ready to keep his wife and his both sons with him. The opposite party was engaged in painting work as a manual labour on the upper floors of a building, during the course of work, he fell from a height, resulting in severe injury to his left leg and left hand. He has become disabled from his left leg. He receives a disability pension amounting to Rs.1,100/- per month. While the petitioner herself works as a cook at the Government School located in Rampalo village and earns an income by performing domestic chores in various households during the morning and evening hours. He is always willing to take the petitioner and their children back home. Being fully aware of this, the petitioner/ wife has filed a maintenance case with a false statement and false fact in the court with intention of harassing him. Thus, she is not entitled to any maintenance and her application is liable to be dismissed.
6. The petitioner has produced altogether 2 witnesses. PW1 is Nazma Khatoon herself and PW2 is Shahjahan Khatoon father of the petitioner. On 06.08.2025 filed an affidavit in compliance of the directions issued by the Hon'ble Supreme Court in *Rajnesh vs Neha and Another*.
7. The Opposite Party has produced altogether three witnesses. OPW1- Shahebzada @ Shahzaad is the opposite party himself, OPW2- Mohammad Ali Sai is the neighbour of the petitioner and OPW3-Aftab Alam is the neighbour of the opposite party. On 09.10.2025 filed an affidavit in compliance of the directions issued by the Hon'ble Supreme Court in *Rajnesh vs Neha and Another*.

EVIDENCE OF PETITIONER

8. **Petitioner Witness No.- 1 Nazma Khatoon**, petitioner herself, has supported the same contents of her petition in her evidence affidavit. During cross-examination she deposed that she was married on 28.05.2011. She has two children from this marriage, the elder is 11 years old and the younger is 10 years old. She stayed at her in-laws' house for ten days. She does not know whether her husband has had an accident or not. She has not seen his disability certificate. Her husband is in court today, she recognize him. Her husband earns a salary of Rs.50,000/- per month. The witness says he works as an Argon welder. When asked whether the opposite party can run, the witness says that he can hit. It is

not that she works as a cook in a Government School. The witness again states that she sometime does the dishes and other chores when called upon. It is also not that her husband is physically disabled, nor her husband cannot earn a single rupee.

9. **Petitioner Witness No.- 2 Shahjahan Khatoon** is father of the petitioner. He has supported the same version of petitioner No.1 in his evidence affidavit. During cross-examination he states that this case has been filed against his son-in-law. The marriage took place in the year 2011. He does not recollect the specific month. There are two children. His son-in-law used to work in Gujarat. His son-in-law resides in the village at time and in Gujarat at other times. He went to Gujarat three months ago. He has no information regarding whether any accident happened or not with his son-in-law. He has no information regarding his son-in-law's earning subsequent to the year 2017. It is not that his son-in-law has become completely disabled as a result of accident. However, it is correct to state that he walks with the aid of Baishakhi. It is also not that he is incapable of performing any work, nor it is true that his income is sufficient merely to cover his sustenance. Furthermore, the details regarding his income that he has previously provided are not correct.

EVIDENCE OF OPPOSITE PARTY

10. **Opposite Party Witness No. 1, Shahebzada @ Shahzaad** is the opposite party himself. He has supported the version of his reply/objection in his evidence affidavit. During cross-examination he deposed that his marriage to the petitioner took place on 28.05.2011. He has two sons, Sazid Ali and Afzal Ali. Both sons are currently with his wife. His wife has been living at her parental house for approximately one and a half years. He is an uneducated. He has visited the petitioner's parental home several times, but he does not recollect the specific dates of his visits. He last visited about three or four months ago. He does not provide any financial support to his wife or children. He is the only child of his parents. His father has passed away. He received a share of 2.5 Dhur of land, upon which a single room structure has been built. He receives a disability pension amounting to Rs.1,100/- per month. Previously, he used to receive Rs.400/- per month. It is not that he owns a motorcycle which he used to commute to and from the court. It is not that he is not disabled, nor is it true that he possesses 5 Bighas of agricultural land, nor he owns a pucca house, nor he does not wish to keep the petitioner with him, nor he intend to contract a second marriage. It is not that he works as an Electrician, nor his total income from all sources amounts to Rs.1,00,000/- per month. It is not that he himself ousted his wife along and children from his home in the year 2020. furthermore, it is not that he has given a false evidence. During court question he states that he has been disabled since before his marriage. A visual examination of the opposite party – it clearly reveals that both of his hands are sound and functional.

Dated- 06.05.2026

An examination of his legs indicates that there is no discrepancy in the girth of his both legs, but the opposite party is used to Baishakhi at his side.

11. **Opposite Party Witness No. 2, Mohammad Ali Sai**, is the neighbour of the opposite party. He has supported the same of the opposite party's reply/objection in his evidence affidavit. During cross-examination he states that he is the neighbour of the opposite party. He has no relation with the opposite party. He does not do any work. He is physically disabled. He was not present at the time of opposite party's marriage. Therefore, he cannot state when the opposite party got married. At that time, he was residing in Tinsukiya, Assam, where he ran a Grocery shop. He had been living there for six months prior to the opposite party's marriage. He returned home three years after the opposite party's marriage took place. Before going to Assam, he used to live at home and work as a daily wage labourer. The opposite party has two sons with the petitioner. Previously, the opposite party worked as a Painter. The opposite party and the witness worked separately, they did not work together. He cannot state the distance between his village and the Village of Janta Bazaar, as he has never visited there. He has not had the opportunity to inspect the opposite party's land records or land documents. The witness voluntarily states that he has no land, how could he has inspected them? He cannot state for whom the opposite party was working in Janta Bazaar. He/the witness is married, and he has three daughters and one son. He bears the financial expenses of his family. He does not know the name of the school where the petitioner works as a cook. He possess no documentary evidence to substantiate that the petitioner works as a cook. He cannot states in whose household the petitioner works. He has knowledge regarding the petitioner's income, but he has no document regarding her income. During court question he states that he has obtained a disability certificate.
12. **Opposite Party Witness No. 3-Aftab Alam**, is the neighbour of the petitioner. She has supported the contents of the reply/objection of the opposite party in his evidence affidavit. During cross-examination he states that he does not know the name of the person with whom the opposite party was married. The opposite party and his wife have two children. Both children currently reside with their mother. He was not present at the location where the opposite party fell while painting. He is aware that the opposite party fractured his leg in the year 2009. He walks with a slight limp. He cannot state the land record or the plot number of the opposite party's land. He has not seen any documents or papers to substantiate the claim that the petitioner No.1 works as a cook. The opposite party stays at home. He did not attend the opposite party's wedding procession. On the day of the marriage, the opposite party was dressed up and adorned in fine attire. It is not the case that the opposite party works and earns a substantial income, nor is it the case that the opposite party refuses to keep the petitioner No.1 with him.

DISCUSSION AND FINDINGS

13. The petitioner No.1 has filed the present proceedings for maintenance under Section 125 Cr.P.C. against her husband-opposite party. Opposite party has admitted that he was married to the petitioner No.1 on 26.06.2011 according to the Muslim customs and rites. Petitioner No.2 and petitioner No.3 are his sons. It is also claimed by the petitioner No.1 that she was tortured for the demand of Rs.50,000/- cash and ultimately, she was ousted out from her matrimonial home on 27.12.2017 along with her sons-petitioner No.2 and 3. It is also claimed that opposite party used to do job as a Argon Welder in Gujarat and he used to earn Rs.40,000/- per month. He has also 5 Bighas of land, out of which he earns Rs.1,00,000/- per annum. She has been passing days burdening her parents, and she claimed maintenance of Rs.25,000/- per month. The opposite party appeared in this matter and filed his objection/reply against the petition of the petitioner No.1 stating therein that this proceeding has been initiated by his wife/petitioner to harass him. He has admitted that petitioner No.1 is his wife and petitioner No.2 and 3 are his sons. He denies other allegation regarding demand of dowry and harassing her for it. He has also claimed that he wants to keep his wife and his sons with him, but she did not want to come at her matrimonial home. Rather she wants to live at her parental home.
14. Petitioner No.1 filed her evidence affidavit as PW1, she supports her version in her evidence affidavit and disclosing that her elder son-petitioner No.2 was 7 years old and younger son-petitioner No.3 was 5 years old, at the time of filing of affidavit. She also deposed that her husband works as an Argon Welder and earns a salary of Rs.50,000/- per month. She does not know about the accident of her husband. She has not seen his disability certificate. PW-2 his father has also support the version of the petitioner No.1 in this regard. There is nothing has been extracted out during his cross-examination.
15. The opposite party has examined himself in support of his version, deposing that petitioner No.1 is his wife and petitioner No.2 and petitioner No.3 are his sons. He receives a disability pension amounting to Rs.1,100/- per month. Further, he claims that he is an unemployed person and he does not provide any financial support to his wife or children. His father has passed away. He received a share of 2.5 Dhur of land, upon which a single room structure has been built. During the cross-examination, the opposite party had admitted that he was married to the petitioner No.1 on 28.05.2011 and he has two sons out of this marriage. He is the only son of his father. He is an uneducated person. He has also admitted that the petitioner No.1 herself works as a Cook in a Government School located in Rampalo village and earns an income by performing domestic chores in various households during the morning and evening hours.

16. From perusal of the record, it is clearly admitted position that petitioner No.1 is the wife of the opposite party and petitioner No.2 and petitioner No.3 are his sons. It is also admitted that both the sons have been living with the petitioner No.1. Petitioner No.1 claims that she has been ousted from her matrimonial home because the demand of dowry could not be fulfilled, while the opposite party claims that she does not want to live with him. Petitioner as well as her witness has supported that she has been ousted on 27.12.2017. Since then she has been living at her Maika. There is nothing to disbelieve the version of the petitioner No.1 and her witness that she has been ousted from her matrimonial home on 27.12.2017. While on the other side, opposite party says that she does not want to live with him and same as his deposition. But this version of the opposite party is not reliable as the same is not supported by his witnesses. Further, no lady with two children will live separate from her husband without any reason. There is nothing in the deposition of the opposite party which may go to show that she has not been ousted from her matrimonial home. In these facts and circumstances, the court is of the view that the opposite party has neglected his wife and children.
17. It has been argued by the learned counsel of the opposite party that he has been discharged in a Criminal Case lodged by the petitioner No.1. No copy of the discharging order has been filed to establish this fact of discharged in a Criminal Case lodged by the petitioner No.1. Further, discharge or an acquittal in a Criminal Case is not a ground for denying maintenance to the wife and children. Hence, the court does not find force in the argument led by the opposite party in this regard.
18. As far as the income of the parties are concerned, petitioner No.1 and her witnesses have consistently deposed that the petitioner No.1 has no source of income, while it is the version of the opposite party in his objection that she works as a Cook in a Government School located at Rampalo village and earns an income by performing domestic chores in various households during the morning and evening hours. The opposite party has filed his affidavit of assets and liabilities stating that the petitioner works as a Cook at the Government School in Rampalo village from which she earns Rs.5,000/- per month. But no document of her income has been filed by the opposite party. While petitioner claims no source of her income in her affidavit of assets and liabilities. Considering the facts and circumstance, the court is of the view that petitioner No.1 has no source of income. Further, photocopy of Birth certificate of petitioner No.2 and 3 has been filed as per the certificate, the date of birth of petitioner No.2 is 25.02.2013 and the date of birth of petitioner No.3 is 25.05.2014. thus, petitioner No.2 and 3 are minors.

19. As far as the income of the opposite party is concerned petitioner has claimed that he works as an Argon welder and earns Rs.40,000/- per month. He has 5 Bighas of agriculture land. Similar is the deposition of the petitioner No.1 and his witness. There is nothing in the cross-examination to discard their testimony. Similar is the version of petitioner No.1 in her disclosure affidavit of assets and liabilities, but no document regarding has been filed. He has no income and he is specially abled person and disability ID has been filed on his behalf. In his disclosure affidavit of assets and liabilities dated 09.10.2025, he has mentioned in it that he spends Rs.3,000/- per month on his own expenses and Rs.1,000/- per month on his mother, while he discloses only Rs.1,100/- his income from disability pension by the government. He has not disclosed as to how he spends Rs.4,000/- per month by earning only Rs.1,100/- per month from the disability pensions. He has filed his statement of account of various dates in which there are various transactions in his bank account and he has been receiving income from the Save Solution Private Limited. Thus, it is clear that the opposite party has concealed his real source of income and his real income from the court to avoid the maintenance to his wife and children. It has been argued by the learned counsel of the opposite party that the petitioner was disabled/specially abled, he cannot do the work of Argon Welding. And he is unable to pay the maintenance to the petitioner as he met an accident in which he became disabled/specially abled. It is also clear from the deposition of the opposite party that the marriage between the parties was solemnized in 2011, while the disability ID filed, was obtained on 31.07.2023 during the pendency of this proceedings. The court has also observed during the deposition of the opposite party that the limbs of opposite party do not show any weakness or difference in thickness of both legs. It is also clear from the deposition of OPW3 that the opposite party met an accident in 2009 and he has slight problem in moving. Despite that he solemnized the marriage with the petitioner No.1 in 2011. Now, it is his moral and social and legal obligations to pay maintenance to the petitioners. Considering the facts and circumstance, the court assumes that the opposite party earns Rs.18,000/- per month from Argon Welding.
20. It is also relevant to mention here that maintenance to the wife or the children is not a punishment against the opposite party rather it is a legal, social and moral obligation of the opposite party to maintain his wife and his children. The object of granting maintenance is to protect the petitioners from destitution and vagrancy. The opposite party cannot avoid his responsibility of paying maintenance to his wife and two minor children by showing his less income or no income.
21. Considering the facts and circumstances and the materials available on record, the opposite party is directed to pay Rs. 5,000/ per month maintenance to the

petitioner No.1, Rs. 2,000/- per month maintenance to petitioner No.2 and Rs.2,000/- per month to the petitioner No.3, total Rs.9,000/- per month, from the date of petition i.e. 27.11.2020, and he is also directed to pay Rs.12,000/- litigation cost to the petitioner No.1. The opposite party shall pay the maintenance amount within 20 days of this order to the petitioner No.1, in case of his default, the petitioner No.1 shall have liberty to apply for enforcement of the order in accordance with laws. It is also made clear that if any interim maintenance has been paid by the opposite party during the pendency of this case, the same shall be set off from the maintenance amount.

22. Office is directed to consign the record to the record room after completing formalities.

Dictated & corrected

(Manoj Kumar-II)
Principal Judge
Family Court, Siwan
Dated: 06th May, 2026.

Pronounced in the open court

(Manoj Kumar-II)
Principal Judge
Family Court, Siwan
Dated: 06th May, 2026.