



RPFAM No.95 of 2025

-Versus-

Advocates appeared in the case:

J U D G M E N T

1. The application is filed by the husband in the marriage seeking revision of the judgment dated 20.02.2025 passed by the learned Judge, Family Court, Bhadrak in Criminal



Proceeding No.231 of 2022. The said criminal proceeding was filed by the wife in the marriage. The parties to the proceeding before the learned Judge, Family Court are governed by Mohammedan Law. Their marriage was solemnized on 15.07.2019. The wife filed the petition under Section 125 of Cr.P.C. (since repealed and substituted by the *pari materia* provision contained in Section 144 of BNSS, 2023) seeking monthly maintenance @ Rs.50,000/- (rupees fifty thousand only).

2. The present petitioner being the opposite party appeared filed his written objection in response to the petition of the wife in the marriage. The learned Judge, Family Court after completion of the pleadings by the parties, framed the following issues:

“Considering the pleadings of both the parties, the following points need to be discussed.

- i) Is the petition maintainable in the eye of law?*
- ii) Whether, the petitioner is the wife of the opp. party?*
- iii) Whether, the opposite party having sufficient means, has neglected and refused to maintain the petitioner?*
- iv) Whether, the petitioner is unable to maintain herself?*
- v) Whether, the petitioner is entitled to get maintenance from the opposite party & if so, what should be the quantum of maintenance?”*



3. The deposition of the petitioner as P.W.1. The documents exhibited by the petitioner i.e. Exts.1 to 7 were delved into by the learned Court and discussed at paragraph 5 of the judgment, which is reproduced herein:

“5. In order to prove her case, the petitioner has examined herself as PW-1. Documents such as certified copy of R.O.Rs of Mouza-Champua. Letter issued by RTO (with report) Keonjhar dtd.22.02.2023 obtained through RTI, Copy of GST Registration No.6 of Md. Anwar Ansara. Original Marriage certificate issued by Marriage Officer, Bhadrak, Certified copy of F.I.R. In Bhadrak (T) P.S. Case No.208 dtd.03.06.2022 & Original Notice along with copy of petition in C.P.57/2022 of the Court of Judge Family Bhadrak, Keonjhar have been adduced on behalf of the petitioner. On the other hand, the opp.party has examined himself as OPW-1 & his father as OPW.2. But O.P. has not proved any document from his side.”

4. The learned Court has taken note of the fact that regarding the first marriage of the petitioner and having a child from her first marriage was never concealed from the opposite party-husband. The opposite party-husband has filed proceeding under Section 27 of the Special Marriage Act bring dissolution of his marriage with the petitioner-wife-opposite party herein.

5. The learned Judge, Family Court has observed at paragraph 10 of the judgment after discussing the statement and evidence.

“... The O.P. even admitted that the pleadings filed in the C.P. case before Judge Family Court, Keonjhar



are correct. The petitioner has proved the copy of the petition of CP No.57/2022 filed before the Judge, Family Court, Keonjhar vide Ext.7. I have gone through the Ext.7 minutely. The petition is filed under Sec.27 of Special Marriage Act, wherein, the O.P. had prayed the court for dissolving the marriage tie between himself and the petitioner.”

6. The learned Judge, Family Court has further observed at paragraph 11 of the judgment after discussing the statement and evidence.

“11. ...In December, 2018 the petitioner gave proposal for marriage to the O.P. and also proposed to got their marriage registered. Finally, both parties remained present in the office of marriage officer G. Parida at Bhadrak on 25.01.2019 in presence of witnesses. Their marriage was registered and they got marriage certificate No.3/2019. That marriage certificate was proved by the petitioner in this case vide Ext.5. It is pertinent to mention here that the details given by the O.P. in the application in C.P.57/2022 tally with Ext.5. Hence, by no stretch of imagination it can be presumed that Ext.5 was manufactured by the petitioner. The O.P. further averred in Ext.7 about their tour to Manali for honeymoon and about the stay of the petitioner in his house. Ext.7 bears detail description about the marital relationship, dispute, misunderstanding and aggravated form of enmity between both the parties. In Ext.7 the O.P. has specifically mentioned that the cause of action for filing the C.P. case before the Judge, Family Court, Keonjhar arose on 25.01.2019, when the marriage between the parties was solemnized and on 30.03.2021 when the petitioner came to Champua with hired goondas and caused damage. Even in that case (C.P.57/2022), the O.P.



solely relied on the marriage certificate as documentary evidence.”

7. The conclusion regarding the marriage of the parties has been observed by the learned Judge, Family Court at paragraph 12, which is reproduced herein:

“12. From the above discussion, there is no doubt in the mind of this court that the marriage registered between the petitioner and the O.P. on 25.01.2019, is a valid marriage and the marriage certificates vide Ext.5 put a stamp of approval over the fact that the petitioner is the legal married wife of the O.P.”

8. Regarding the plea of the present petitioner with regard to earlier marriage of the opposite party-wife, the learned Judge, Family Court has dealt with the evidence and has recorded thus:

“It was argued that the petitioner stated at para-12 that

"there was no divorce in between her and her husband".

But no such statement could be found by this court. From para-12 of the evidence of the petitioner. Rather she stated that

Xxxxxx I gave divorce to Mikhail Khan xxxxxx

It is pertinent to mention here that the onus lies on the O.P to prove that there was no divorce between the petitioner and Mikhail Khan. The O.P could have examined Mikhail Khan or any other person, who is the friend or relative of Mikhail to prove such fact. But nothing of that sort done by the OP. Hence, for all practical purposes it can be hold that non other than the petitioner is the legal married wife of the OP.”



9. Regarding the income of the petitioner-wife and the Opp. Party-husband, the learned Judge, Family Court has dealt with the said aspect at length at paragraphs 14 and 15, which are extracted herein:

“14. ... both the parties have not submitted their affidavits of assets and liabilities during trial of this case. So from the evidence of the parties and other materials this court has to find out the quantum of maintenance. It is forthcoming from the materials that the petitioner is a practicing advocate of Bhadrak court. The petitioner submitted that she is practicing since two years. On the contrary, the O.P submitted that the petitioner is in practice, since six years and earns more than Rs. 50,000/- per month. The income of the petitioner, as stated by the O.P appears to be highly exaggerated. On the other hand, the petitioner claims that the O.P has bus business, cares and business of marbles and tiles. The petitioner claims that the O.P earns around Rs. 3 lakhs per month. But the O.P filed documents before the court for reference, which shows that the income from 2022 to 2025 from, M/s Annu Sales Corporation is Zero. That apart it was argued that the old bus has already completed fifteen years and that is not playing on road, as per guidelines of Government. But no supporting document to that effect was filed by the O.P. The O.P has filed Xerox copy of registration certificate of Bus. No. OR-09-M1657, which stands in the name of the O.P. Ext.3 reveals that a car bearing no.OD-02AA6468 is also registered if the name of the O.P. Ext. 4 reveals that M/S Anu Sales Corporation is registered is the name of the O.P as proprietor. From these documents, it can be clearly presumed that the O.P belong to a well to do family and he is having a good business establishment. But no conclusive



opinion regarding the income of the O.P can be drawn, as the petitioner has not filed any document or receipt, which can show the income of the O.P.

15. Being the wife of the O.P the petitioner has right to lead her life with same status of the O.P. Therefore, considering the status of the parties, their social life and the present market value, the ability of the party including the age of the petitioner, for future welfare; it will be just and proper for the interest of justice to pass order directing the opp. Party to pay monthly maintenance of Rs. 10,000/- (Ten Thousand Only) to the petitioner in the first week of each English Calendar month from the date of filing of this case i.e 11.8.2022.”

10. In **Shamima Farooqui v. Shahid Khan**¹, the Apex Court dealt with scope of revision by High Court of a judgment passed by the learned Family Court in a proceeding under Section 125 of Cr.P.C. and have laid down the law authoritatively. The paragraphs those would be apt to be applied for the present case, paragraphs-20 and 21 (from SCC Online print) are reproduced herein:

“20. In the instant case, as is seen, the High Court has reduced the amount of maintenance from Rs 4000 to Rs 2000. As is manifest, the High Court has become oblivious of the fact that she has to stay on her own. Needless to say, the order of the learned Family Judge is not manifestly perverse. There is nothing perceptible which would show that order is a sanctuary of errors. In fact, when the order is based on proper appreciation of evidence on record, no Revisional Court should have interfered with the reason on the base that it would have arrived at a different or another conclusion. When substantial

¹ (2015) 5 SCC 705: AIR 2015 SC 2025



justice has been done, there was no reason to interfere. There may be a shelter over her head in the parental house, but other real expenses cannot be ignored. Solely because the husband had retired, there was no justification to reduce the maintenance by 50%. It is not a huge fortune that was showered on the wife that it deserved reduction. It only reflects the non-application of mind and, therefore, we are unable to sustain the said order.

21. Having stated the principle, we would have proceeded to record our consequential conclusion. But, a significant one, we cannot be oblivious of the asseverations made by the appellant. It has been asserted that the respondent had taken voluntary retirement after the judgment dated 17-2-2012 with the purpose of escaping the liability to pay the maintenance amount as directed to the petitioner; that the last-drawn salary of the respondent taken into account by the learned Family Judge was Rs 17,564 as per salary slip of May 2009 and after deduction of AFPP Fund and AGI, the salary of the respondent was Rs 12,564 and hence, even on the basis of the last basic pay (i.e. Rs 9830) of the respondent the total pension would come to Rs 14,611 and if 40% of commutation is taken into account then the pension of the respondent amounts to Rs 11,535; and that the respondent, in addition to his pension, had received encashment of commutation to the extent of 40% i.e. Rs 3,84,500 and other retiral dues i.e. AFPP, AFGI, gratuity and leave encashment to the tune of Rs 16,01,455. The aforesaid aspects have gone uncontroverted as the respondent husband has not appeared and contested the matter. Therefore, we are disposed to accept the assertions. This exposition of facts further impels us to set aside the order of the High Court."

11. The discussions of the materials on record such as pleadings, written statement, depositions have been noted in



detail by the learned Family Court and the issues have been answered.

The paragraphs from ***Shamima Farooqui*** (*supra*) are noted by this Court, the principles of law laid down therein are applied to consider whether this Court can interfere with the judgment in exercise of revisional jurisdiction. The relevant paragraphs from ***Shamima Farooqui*** (*supra*) are reproduced herein :

“8. So far as the point no.1 relating to the inability of the petitioners is concerned, the petitioner no.1 in her affidavit evidence has stated specifically that she has no independent source of income to maintain herself and her minor daughter and her father is a very poor man, who is also unable to maintain the petitioners. It is seen that during her cross-examination, the aforesaid evidence was not challenged specifically nor did the opposite party adduce any evidence to establish any independent source of income of the petitioner no.1. In that view of the matter, this court having found that the petitioner no.2 has no independent source of income and the petitioner no.2 being the minor, has held that the petitioners are unable to maintain themselves.

9. So far as the sufficient means of the opposite party is concerned, law is well settled that “sufficient means” always does not indicate any visible means or property and if a person is healthy and able to bodied, he should be held to have “sufficient means” to maintain his wife, children and parents.

In the instant case, though the petitioner no.1 has stated in her affidavit evidence that the opposite party owns and possesses sufficient agricultural land and carrying business and his monthly income from



both the sources is Rs.30,000/- per month, during her cross-examination., she stated that the opposite party is an electrician by profession. The opposite party has also stated in his objection that he is an electrical mechanic. Therefore, in absence of any other materials regarding the business or landed property of the opposite party except the oral evidence of P.W.1 and P.W.2, the alleged income of the opposite party cannot be accepted. However, considering the fact that the opposite party is an electrician by profession and he being an able bodied man, this Court has held that the opposite party has sufficient means to maintain the petitioners.

10. So far as refusal and neglect on the part of the opposite party in maintaining the petitioners is concerned, the petitioner no.1 corroborating the averments made in the petition has stated categorically in her affidavit evidence that after marriage, she was subjected to torture for non-fulfillment of further demand of Rs.1,00,000/- and consequent thereupon, she was also abused and her daughter was also not taken care properly by the opposite party and his family members. It is stated that for the aforesaid reason, she was taken by her father to her parental house on 24.09.2016. The aforesaid evidence of the petitioner no.1 goes to show about the neglect on the part of the opposite party in maintaining them. The petitioners have been residing separately from the opposite party since the year 2016, but there is nothing on record, which would go to show that the opposite party has paid anything towards their maintenance, rather the evidence of the petitioners goes to show that the opposite party had filed a proceeding for divorce vide C.P.No.186 of 2021 though he has subsequently withdrawn the same. Though the opposite party gave suggestion during the cross-examination of the petitioner no.1 that the petitioner no.1 had filed a divorce proceeding vide C.P. No.155 of 2017 in the court of the learned Civil Judge



(Sr. Divn.), Jagatsinghpur, but nothing was adduced from the side of the opposite party to substantiate the same. Therefore, considering the aforesaid oral evidence of the petitioner no.1 and her father, this court held that it is the opposite party, who has neglected in maintaining the petitioners and now refusing to maintain them. It is argued on behalf of the opposite party that since this court has already passed an interim order of maintenance in C.P. No.186 of 2021, no further maintenance should be awarded in favour of the opposite party. But the fact remains that the C.P. No.186 of 2021 has been disposed of in the mean time and such order of maintenance passed for pendentlite maintenance of the petitioner no.1 is no more in force. The opposite party has not stated or proved any other ground to deny paying maintenance to the petitioners. It is already held that the opposite party has sufficient means to maintain the petitioners. Therefore, the opposite party should be directed to pay maintenance to the petitioners."

[Underlined to supply emphasis]

12. Learned counsel for the petitioner submits that the judgment of the learned Family Court is erroneous as the learned court has not appreciated evidence in its proper perspective. Learned counsel has been apprised of the law laid down in **Shamima Farooqui** (supra) and that it is required to be shown from the written statement filed by the petitioner and evidence laid before learned trial court to support the contentions raised.

13. Regarding the liability of the husband to pay the maintenance, at paragraphs 16, 17, 18 of **Shamima**



Farooqui (*supra*) the apex Court have extensively dealt with the issue. The law laid down is applied by this Court to the present adjudication and the paragraphs (from SCC Online Print) are reproduced herein :

16. Grant of maintenance to wife has been perceived as a measure of social justice by this Court. In Chaturbhuj v. Sita Bai [(2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356], it has been ruled that : (SCC p. 320, para 6)

“6. ... Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in Capt. Ramesh Chander Kaushal v. Veena Kaushal [(1978) 4 SCC 70: 1978 SCC (Cri) 508] falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It 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. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat [(2005) 3 SCC 636 : 2005 SCC (Cri) 787] .”

17. This being the position in law, it is the obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain the wife due to financial constraints as long as he is capable of earning.

18. In this context, we may profitably quote a passage from the judgment rendered by the High Court of Delhi in Chander Parkash Bodh Raj v. Shila



Rani Chander Prakash [1968 SCC OnLine Del 52 : AIR 1968 Del 174] wherein it has been opined thus : (SCC OnLine Del para 7)

7. ... an able-bodied young man has to be presumed to be capable of earning sufficient money so as to be able reasonably to maintain his wife and child and he cannot be heard to say that he is not in a position to earn enough to be able to maintain them according to the family standard. It is for such able-bodied person to show to the Court cogent grounds for holding that he is unable, for reasons beyond his control, to earn enough to discharge his legal obligation of maintaining his wife and child. When the husband does not disclose to the Court the exact amount of his income, the presumption will be easily permissible against him."

[Underlined to supply emphasis]

14. Regarding the plea of the petitioner herein, before the learned trial court that he is unable/in capable to pay, the discussions and the observations made by the apex Court in ***Shamima Farooqui*** (*supra*) at paragraphs-15, 16, 17, 18 and 19 are apposite and are reproduced herein:

"15. While determining the quantum of maintenance, this Court in Jasbir Kaur Sehgal v. District Judge, Dehradun [(1997) 7 SCC 7] has held as follows : (SCC p. 12, para 8)

"8. ... The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and of those he is obliged under the law and statutory but involuntary payments or deductions. The amount of maintenance fixed for the wife should be such



as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount so fixed cannot be excessive or extortionate.”

16. Grant of maintenance to wife has been perceived as a measure of social justice by this Court. In Chaturbhuj v. Sita Bai [(2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] , it has been ruled that : (SCC p. 320, para 6)

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19. From the aforesaid enunciation of law it is limpid that the obligation of the husband is on a higher pedestal when the question of maintenance of wife and children arises. When the woman leaves the matrimonial home, the situation is quite different. She is deprived of many a comfort. Sometimes her faith in life reduces. Sometimes, she feels she has lost the tenderest friend. There may be a feeling that her fearless courage has brought her the misfortune. At this stage, the only comfort that the law can impose is that the husband is bound to give monetary comfort. That is the only soothing legal balm, for she cannot be allowed to resign to destiny. Therefore, the lawful imposition for grant of maintenance allowance."

15. By applying the above principles to the present case, it is apparent that the present petitioner-husband being able bodied, has to be presumed to be capable of earning sufficient money to maintain his wife, he cannot be heard to say that he is not in a position to earn enough.

It was for the opposite party-husband to show cogent grounds before the learned Family Court to hold that for



reasons beyond his control he is unable to earn enough, to discharge his legal obligation.

From reading of the judgment impugned it is apparent that before the learned Judge, Family Court the petitioner-herein has not made any such endeavor. There was no legally permissible ground shown before the learned Judge, Family Court to accept the plea of the petitioner that he would not pay any maintenance.

To deny his employment and earning therefrom the opposite party-husband did not bother to adduce any positive evidence.

16. In ***Shamima Farooqui*** (*supra*) the Hon'ble Supreme Court commenting on reduction of amount of maintenance from ₹4,000/- to ₹2,000/- by order of the High Court observed "*it only reflects the non-application of mind and, therefore, we are unable to sustain the said order...*"

17. Following the above well settled legal principles, it has to be and is held that it is the obligation of the husband to maintain his wife and minor children, he cannot be heard to plead that he is unable to maintain his wife due to financial constraint as long as he is able bodied and/or educated and/or capable of earning.

18. Nature and scope of Section 125 CrPC (since repealed and substituted by *pari materia* provision contained in Section 144 of the BNSS, 2023), the legislative policy behind the enactment and the constitutional philosophy that has



guided such enactment have been elaborately discussed in the judgment rendered by the Hon'ble Supreme Court in ***Rajnesh v Neha***².

The paragraphs from ***Rajnesh*** (*supra*) relied upon and applied by this Court for deciding the present revision application are reproduced herein (from SCC Online web edition print):

“(d) Section 125 CrPC

32. Chapter IX of the Code of Criminal Procedure, 1973 provides for maintenance of wife, children and parents in a summary proceeding. Maintenance under Section 125 CrPC may be claimed by a person irrespective of the religious community to which they belong. The purpose and object of Section 125 CrPC is to provide immediate relief to an applicant. An application under Section 125 CrPC is predicated on two conditions : (i) the husband has sufficient means; and (ii) “neglects” to maintain his wife, who is unable to maintain herself. In such a case, the husband may be directed by the Magistrate to pay such monthly sum to the wife, as deemed fit. Maintenance is awarded on the basis of the financial capacity of the husband and other relevant factors.

33. The remedy provided by Section 125 is summary in nature, and the substantive disputes with respect to dissolution of marriage can be determined by a civil court/Family Court in an appropriate proceeding, such as the Hindu Marriage Act, 1955.

34. In Bhagwan Dutt v. Kamla Devi [Bhagwan Dutt v. Kamla Devi, (1975) 2 SCC 386 : 1975 SCC (Cri) 563] the Supreme Court held that under Section 125(1) CrPC only a wife who is “unable to maintain herself” is entitled to seek maintenance. The Court held : (SCC p. 392, para 19)

² (2021) 2 SCC 324



“19. The object of these provisions being to prevent vagrancy and destitution, the Magistrate has to find out as to what is required by the wife to maintain a standard of living which is neither luxurious nor penurious, but is modestly consistent with the status of the family. The needs and requirements of the wife for such moderate living can be fairly determined, only if her separate income, also, is taken into account together with the earnings of the husband and his commitments.”

(emphasis supplied)

35. Prior to the amendment of Section 125 in 2001, there was a ceiling on the amount which could be awarded as maintenance, being Rs 500 “in the whole”. In view of the rising costs of living and inflation rates, the ceiling of Rs 500 was done away with by the 2001 Amendment Act. The Statement of Objects and Reasons of the Amendment Act states that the wife had to wait for several years before being granted maintenance. Consequently, the Amendment Act introduced an express provision for grant of “interim maintenance”. The Magistrate was vested with the power to order the respondent to make a monthly allowance towards interim maintenance during the pendency of the petition. Under sub-section (2) of Section 125, the court is conferred with the discretion to award payment of maintenance either from the date of the order, or from the date of the application. Under the third proviso to the amended Section 125, the application for grant of interim maintenance must be disposed of as far as possible within sixty days from the date of service of notice on the respondent.

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37. In *Chaturbhuj v. Sita Bai* [*Chaturbhuj v. Sita Bai*, (2008) 2 SCC 316: (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] this Court 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. Section 125 CrPC is a measure of social justice especially enacted to protect women and children, and falls within the constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution.

38. Proceedings under Section 125 Cr PC are summary in nature. In Bhuwan Mohan Singh v. Meena/Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353 : (2015) 3 SCC (Civ) 321 : (2015) 4 SCC (Cri) 200] this Court held that Section 125 CrPC was conceived to ameliorate the agony, anguish, financial suffering of a woman who had left her matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children. Since it is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband was required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation, except on any legally permissible ground mentioned in the statute.

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III. Criteria for determining quantum of maintenance

77. The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

78. The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult



members of the family; reasonable costs of litigation for a non-working wife.

79. In *Manish Jain v. Akanksha Jain* [(2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the court should mould the claim for maintenance based on various factors brought before it.

80. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications.

81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [*Chaturbhuj v. Sita Bai*, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so



extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.

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84. The Delhi High Court in *Bharat Hegde v. Saroj Hegde* [Bharat Hegde v. Saroj Hegde, 2007 SCC OnLine Del 622 : (2007) 140 DLT 16] laid down the following factors to be considered for determining maintenance : (SCC OnLine Del para 8)

- “1. Status of the parties.
2. Reasonable wants of the claimant.
3. The independent income and property of the claimant.
4. The number of persons, the non-applicant has to maintain.
5. The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.
6. Non-applicant's liabilities, if any.
7. Provisions for food, clothing, shelter, education, medical attendance and treatment, etc. of the applicant.
8. Payment capacity of the non-applicant.
9. Some guesswork is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.
10. The non-applicant to defray the cost of litigation.
11. The amount awarded under Section 125 CrPC is adjustable against the amount awarded under Section 24 of the Act.”

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Discussion and Directions

109. The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded. Even though a judicial



discretion is conferred upon the court to grant maintenance either from the date of application or from the date of the order in Section 125(2) CrPC, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 CrPC. In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

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V. Enforcement of orders of maintenance

114. Enforcement of the order of maintenance is the most challenging issue, which is encountered by the applicants. If maintenance is not paid in a timely manner, it defeats the very object of the social welfare legislation. Execution petitions usually remain pending for months, if not years, which completely nullifies the object of the law. The Bombay High Court in Sushila Viresh Chhadva v. Viresh Nagshi Chhadva held that : (SCC OnLine Bom para 7)

“7. ... The direction of interim alimony and expenses of litigation under Section 24 is one of urgency and it must be decided as soon as it is raised and ... the law takes care that nobody is disabled from prosecuting or defending the matrimonial case by starvation or lack of funds.”

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117. Section 125(3) CrPC provides that if the party against whom the order of maintenance is passed fails to comply with the order of maintenance, the same shall be recovered in the manner as provided for fines, and the Magistrate may award sentence of imprisonment for a term which may extend to one month, or until payment, whichever is earlier.

xxx

xxx

xxx



VI. Final Directions

127. In view of the foregoing discussion as contained in Part B — I 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.

xxx

xxx

xxx

(d) Date from which maintenance is to be awarded

131. 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.

19. Having perused the judgment of the learned Family Court, the discussions in the judgment regarding examination in chief and cross-examination of petitioner-P.W.1, the O.P.-present petitioner O.P.W.-1 and his father O.P.W.-2, exhibits marked by petitioner-wife and the discussions made on the pleadings of the parties; by applying the tests laid down in ***Shamima Farooqui*** (*supra*) it has to be and is held that there is nothing perceptible which would show that the judgment of the learned Judge, Family Court is a sanctuary of errors. Further it has to be and is held that the order is based on proper appreciation of evidence on record.

As observed by the Hon'ble apex Court, this Court in exercise of revisional jurisdiction would not interfere with, as because, this Court would arrive at a different or another conclusion.

20. Further it has to be held that this Court would not interfere when in the case at hand substantial justice has



been done by the learned Family Court. However, the awarded amount of ₹10,000/- as maintenance per month is modified to Rs.8,000/- per month considering the findings of the learned Family, Judge; “... *But no conclusive opinion regarding the income of the O.P can be drawn, as the petitioner has not filed any document or receipt, which can show the income of the O.P.*” All other directions of the learned Family Court remain as it is. The amount of Rs.8,000/- per month shall be payable from the date of filing of petition i.e. 11.08.2022.

21. No case is made out for revision of the judgment of the learned Judge, Family Court, Bhadrak dated 20.02.2025 passed in Criminal Proceeding No.231 of 2022 apart from the amount directed having been reduced to Rs.8,000/- per month in the facts and circumstances of the case.

The revision application is disposed of.

(Mruganka Sekhar Sahoo)
Judge

Orissa High Court, Cuttack
The 4th May, 2026/Jyostna

Signature Not Verified

Digitally Signed
Signed by: JYOSTNARANI MAJHEE
Reason: Authentication
Location: OHC RPFAM No. 15 of 2025
Date: 13-May-2026 11:13:07