



2. The petitioner-wife is before this Court partly challenging the order dated 06.07.2023 passed by the learned Judge, Family Court, Bhubaneswar in I.A. No.06 of 2021 arising out of C.P. No.55 of 2021. The said CP was filed by the petitioner-wife seeking decree of divorce under Section 13 of the Hindu Marriage Act, 1955. During pendency of the petition, the I.A. was filed seeking maintenance under Section 24 of the Hindu Marriage Act, 1955 which was favoured and order was passed, which is challenged herein.

3. It is submitted by the learned counsel for the petitioner that in all fairness, the learned Family Court should have granted the maintenance with effect from filing of the petition under Section 24 of Hindu Marriage Act and not from the date of passing of the order as has been done in this case.

It is further submitted that the petitioner also wants enhancement of the maintenance.

4. As was noted by order 12.01.2026, C.P. No.55 of 2021 was dismissed for non-prosecution by order dated 19.08.2025. Therefore, it was contended by the learned counsel for the opposite party that I.A. does not survive before the learned Judge, Family Court. Accordingly, the present writ application being a challenge to the order passed in the I.A. would also not survive.



5. Thereafter, the petitioner-wife in the marriage before the learned Family Court filed CMA No.98 of 2025 arising out of the C.P. No.55 of 2021 under Order 9 Rule 13 of Code of Civil Procedure, 1908 for restoration of the C.P. The CMA was contested by the husband in the marriage. However, by order dated 21.03.2026, the CMA has been favoured with the following direction:

“For the interest of justice and for proper adjudication of the matter in controversy, the petition filed for restoration of Civil Proceeding No.55 of 2021 to its stage by setting aside order dated 19.08.2025 deserves merit and as such, the same is allowed. Accordingly, order dated 19.08.2025 is set aside and the Civil Proceeding No.55 of 2021 is restored to file, but in the circumstances without any cost.”

6. True copy of the order dated 21.03.2026 in CMA No.98 of 2023 received by the petitioner herein from the Family Court, Bhubaneswar was produced by the learned counsel for the petitioner. Photocopy of the said true copy is also filed before this Court along with memo of date. True copy received from the Family Court is returned to the learned counsel retaining the memo along with the photocopy.

7. Now in view of the restoration of the proceeding C.P. No.55 of 2021, in considered view of this Court all the orders passed in the said C.P. by the learned Family Court also are restored.



The present writ application has to be proceeded with as it arises out of the said C.P.

The question of law raised in the writ application is on grant of maintenance pendente lite under Section 24 of Hindu Marriage Act during pendency of an application under Section 13 of Hindu Marriage Act what would be the date with effect from which the maintenance is to be paid by the spouse who is to pay.

8. The said question has been authoritatively dealt with and answered by the Hon'ble Apex Court in the judgment, ***Rajnish v. Neha and another***¹. The relevant paragraphs dealing with the said question wherein the Apex Court have quoted with approval several judgments rendered by various High Court including the Orissa High Court, are reproduced herein:

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IV. Date from which Maintenance to be Awarded

94. *There is no provision in the HMA with respect to the date from which an order of maintenance may be made effective. Similarly, Section 12 of the DV Act, does not provide the date from which the maintenance is to be awarded. Section 125(2) CrPC is the only statutory provision which provides that the Magistrate may award maintenance either from the date of the order, or from the date of application. [K. Sivaram v. K. Mangalamba, 1989 SCC OnLine AP 60 : (1989) 1 AP LJ 604]*

¹ (2021)2 SCC 324: 2020 INSC 631



95. *In the absence of a uniform regime, there is a vast variance in the practice adopted by the Family Courts in the country, with respect to the date from which maintenance must be awarded. The divergent views taken by the Family Courts are : first, from the date on which the application for maintenance was filed; second, the date of the order granting maintenance; third, the date on which the summons was served upon the respondent.*

(a) From date of application

96. *The view that maintenance ought to be granted from the date when the application was made, is based on the rationale that the primary object of maintenance laws is to protect a deserted wife and dependent children from destitution and vagrancy. If maintenance is not paid from the date of application, the party seeking maintenance would be deprived of sustenance, owing to the time taken for disposal of the application, which often runs into several years.*

97. *The Orissa High Court in *Susmita Mohanty v. Rabindra Nath Sahu* [*Susmita Mohanty v. Rabindra Nath Sahu*, (1996) 1 OLR 361] held that the legislature intended to provide a summary, quick and comparatively inexpensive remedy to the neglected person. Where a litigation is prolonged, either on account of the conduct of the opposite party, or due to the heavy docket in courts, or for unavoidable reasons, it would be unjust and contrary to the object of the provision, to provide maintenance from the date of the order.*

98. *In *Kanhu Charan Jena v. Nirmala Jena* [*Kanhu Charan Jena v. Nirmala Jena*, 2000 SCC OnLine Ori 217 : 2001 Cri LJ 879], the Orissa High Court was considering an application under Section 125*

[Underlined to supply emphasis]



CrPC, wherein it was held that even though the decision to award maintenance either from the date of application, or from the date of order, was within the discretion of the court, it would be appropriate to grant maintenance from the date of application. This was followed in Arun Kumar Nayak v. Urmila Jena [Arun Kumar Nayak v. Urmila Jena, 2010 SCC OnLine Ori 30 : (2010) 93 AIC 726] , wherein it was reiterated that dependants were entitled to receive maintenance from the date of application.

99. The Madhya Pradesh High Court in Krishna v. Dharam Raj [Krishna v. Dharam Raj, 1991 SCC OnLine MP 6 : (1993) 2 MPJR 63] held that a wife may set up a claim for maintenance to be granted from the date of application, and the husband may deny it. In such cases, the court may frame an issue, and decide the same based on evidence led by parties. The view that the “normal rule” was to grant maintenance from the date of order, and the exception was to grant maintenance from the date of application, would be to insert something more in Section 125(2) CrPC, which the legislature did not intend. Reasons must be recorded in both cases. i.e. when maintenance is awarded from the date of application, or when it is awarded from the date of order.

100. The law governing payment of maintenance under Section 125 CrPC from the date of application, was extended to HAMA by the Allahabad High Court in Ganga Prasad Srivastava v. Addl. District Judge, Gonda [Ganga Prasad Srivastava v. Addl. District Judge, Gonda, 2019 SCC OnLine All 5428 : (2019) 6 ADJ 850] . The Court held that the date of application should always be regarded as the starting point for payment of maintenance. The Court was considering a suit for maintenance under Section

[Underlined to supply emphasis]



18 of the HAMA, wherein the Civil Judge directed that maintenance be paid from the date of judgment. The High Court held that the normal inference should be that the order of maintenance would be effective from the date of application. A party seeking maintenance would otherwise be deprived of maintenance due to the delay in disposal of the application, which may arise due to paucity of time of the court, or on account of the conduct of one of the parties. In this case, there was a delay of seven years in disposing of the suit, and the wife could not be made to starve till such time. The wife was held to be entitled to maintenance from the date of application/suit.

101. The Delhi High Court in *Lavlesh Shukla v. Rukmani* [*Lavlesh Shukla v. Rukmani*, 2019 SCC OnLine Del 11709] held that where the wife is unemployed and is incurring expenses towards maintaining herself and the minor child/children, she is entitled to receive maintenance from the date of application. Maintenance is awarded to a wife to overcome the financial crunch, which occurs on account of her separation from her husband. It is neither a matter of favour to the wife, nor any charity done by the husband.

(b) From the date of order

102. The second view that maintenance ought to be awarded from the date of order is based on the premise that the general rule is to award maintenance from the date of order, and grant of maintenance from the date of application must be the exception. The foundation of this view is based on the interpretation of Section 125(2) CrPC which provides:

“125. (2) Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable

[Underlined to supply emphasis]



from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.”

(emphasis supplied)

The words “or, if so ordered” in Section 125 have been interpreted to mean that where the court is awarding maintenance from the date of application, special reasons ought to be recorded. [Bina Devi v. State of U.P., 2010 SCC OnLine All 236 : (2010) 69 ACC 19]

103. *In Bina Devi v. State of U.P. [Bina Devi v. State of U.P., 2010 SCC OnLine All 236 : (2010) 69 ACC 19] the Allahabad High Court on an interpretation of Section 125(2) CrPC held that when maintenance is directed to be paid from the date of application, the court must record reasons. If the order is silent, it will be effective from the date of the order, for which reasons need not be recorded. The Court held that Section 125(2) CrPC is prima facie clear that maintenance shall be payable from the date of the order.*

104. *The Madhya Pradesh High Court in Amit Verma v. Sangeeta Verma [Amit Verma v. Sangeeta Verma, 2020 SCC OnLine MP 2657] directed that maintenance ought to be granted from the date of the order.*

(c) From the date of service of summons

105. *The third view followed by some courts is that maintenance ought to be granted from the date of service of summons upon the respondent.*

106. *The Kerala High Court in S. Radhakumari v. K.M.K. Nair [S. Radhakumari v. K.M.K. Nair, 1982 SCC OnLine Ker 51 : AIR 1983 Ker 139] was considering an application for interim maintenance preferred by the wife in divorce proceedings filed by the husband. The High Court held that maintenance*



must be awarded to the wife from the date on which summons were served in the main divorce petition. The Court relied upon the judgment of the Calcutta High Court in *Samir Kr. Banerjee v. Sujata Banerjee* [Samir Kr. Banerjee v. Sujata Banerjee, 1965 SCC OnLine Cal 196 : (1965-66) 70 CWN 633] and held that Section 24 of the HMA does not contain any provision that maintenance must be awarded from a specific date. The court may, in exercise of its discretion, award maintenance from the date of service of summons.

107. The Orissa High Court in *Gouri Das v. Pradyumna Kumar Das* [Gouri Das v. Pradyumna Kumar Das, (1986) 2 OLR 44] was considering an application for interim maintenance filed under Section 24 HMA by the wife, in a divorce petition instituted by the husband. The Court held that the ordinary rule is to award maintenance from the date of service of summons. It was held that in cases where the applicant in the maintenance petition is also the petitioner in the divorce petition, maintenance becomes payable from the date when summons is served upon the respondent in the main proceeding.

108. In *Kalpana Das v. Sarat Kumar Das* [Kalpana Das v. Sarat Kumar Das, 2009 SCC OnLine Ori 21 : AIR 2009 Ori 133] the Orissa High Court held that the wife was entitled to maintenance from the date when the husband entered appearance. The Court was considering an application for interim maintenance under Section 24 HMA in a petition for restitution of conjugal rights filed by the wife. The Family Court awarded interim maintenance to the wife and minor child from the date of the order. In an appeal filed by the wife and minor child seeking maintenance from the date of application, the High Court held that the Family Court had failed to assign any reasons in support of its order, and directed : (SCC OnLine Ori para 8)



“8. ... The learned Judge, Family Court has not assigned any reason as to why he passed the order of interim maintenance w.e.f. the date of order. When admittedly the parties are living separately and prima facie it appears that the petitioners have no independent source of income, therefore, in our view order should have been passed for payment of interim maintenance from the date of appearance of the opposite party-husband.”

(emphasis supplied)

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.

110. In *Shail Kumari Devi v. Krishan Bhagwan Pathak* [*Shail Kumari Devi v. Krishan Bhagwan Pathak*, (2008) 9 SCC 632 : (2008) 3 SCC (Cri) 839], this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In *Bhuwan Mohan Singh v. Meena* [*Bhuwan Mohan Singh v. Meena*,

[Underlined to supply emphasis]



(2015) 6 SCC 353 : (2015) 3 SCC (Civ) 321 : (2015) 4 SCC (Cri) 200] , this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9 years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual. The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.

111. The rationale of granting maintenance from the date of application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband. Financial constraints of a dependent spouse hamper their capacity to be effectively represented before the court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the court concerned.

112. In *Badshah v. Urmila* Badshah
Godse [*Badshah v. Urmila* Badshah Godse,
(2014) 1 SCC 188 : (2014) 1 SCC (Civ) 51] , the
Supreme Court was considering the interpretation
of Section 125 CrPC. The Court held : (SCC p. 196,
para 13)

“13.3. ... purposive interpretation needs to be given to the provisions of Section 125 CrPC. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve “social justice” which is the constitutional

[Underlined to supply emphasis]



vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society.”

(emphasis supplied)

113. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all courts, by directing that maintenance be awarded from the date on which the application was made before the court concerned. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.

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VI. Final Directions

127. In view of the foregoing discussions 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.

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(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.”

[Underlined to supply emphasis]



9. Learned counsel for the opposite party, Ms. Patnaik takes a fair stand as far as applicability of the judgment of the Hon'ble Apex Court is concerned.

10. In view of the above discussions, applying the principles laid by Hon'ble the Supreme Court to facts of the present case, the order dated 06.07.2023 passed by the learned Judge, Family Court, Bhubaneswar in IA No.06 of 2021, arising out of C.P. No.55 of 2021 is modified only to the extent that the interim maintenance shall be payable to the petitioner by the opposite party, from the date of filing of the application under Section 24 of Hindu Marriage Act which has been stated to be 13.01.2021 and also not disputed. With the aforesaid modifications, the order dated 06.07.2023 is also affirmed.

11. The writ application is allowed to the aforesaid extent and the disposed of.

(Mruganka Sekhar Sahoo)
Judge

Orissa High Court, Cuttack
The 24th March, 2026/Jyostna