



2025:AHC-LKO:76630

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL REVISION No. - 1359 of 2025

Vikas Sharma

.....Revisionist(s)

Versus

State Of U.P. Thru. Secy. Home Deptt. Lko. And
Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Shiv Kumar Vishwakarma, Jeet
Tripathi, Surya Bhushan Srivastava
Counsel for Opposite Party(s) : G.A.

Court No. - 13

HON'BLE SAURABH LAVANIA, J.

1. Heard learned counsel for the revisionist and learned AGA for the State of U.P. as well as perused the record.
2. By means of the instant revision, the revisionist has impeached the final order dated 20.08.2025 passe by the Additional Principal Judge, Family Court, Court No. 7, Lucknow (in short "Family Court") in Criminal Misc. Case No. 1246 of 2021 (Smt. Mona Sharma vs. Vikash Sharma).
3. Vide order under challenge dated 20.08.2025, the Family Court awarded Rs. 2500/- per month to the opposite party No. 2/Smt. Mona Sharma w/o Vikash Sharma (revisionist) towards maintenance. The impugned order dated 20.08.2025 reads as under:-

"दिनांक 20.08.2025

लंच पश्चात

पत्रावली लंच पश्चात आदेश हेतु पेश हुई। पक्षकार को प्रार्थनापत्र ग-4 वास्ते अन्तरिम भरण-पोषण पर लंच पूर्व में सुना जा चुका है।

प्रार्थिनी की ओर से प्रार्थना पत्र ग-4 मय शपथ पत्र प्रस्तुत कर कथन किया गया है कि प्रार्थिनी का विवाह दिनांक 28.11.2013 को हिन्दू रीति रिवाज के अनुसार विपक्षी के साथ बशीरपुरा, जालंधर पंजाब में सम्पन्न हुआ था। प्रार्थिनी ने विवाह के बाद ससुराल में रहकर अपने पत्नी धर्म के दायित्वों का निर्वहन खुशी पूर्वक करने लगी। विवाह के कुछ दिनों के बाद से ही प्रार्थिनी को पति, सास, जेठ, जेठानी, चचिया ससुर, चचिया सास, ननदोई एवं ननद के द्वारा दहेज आदि के लिए प्रताड़ित करने लगे और प्रार्थिनी से कहने लगे, कि वह अपने पिता और भाईयों से और रुपये मांगे, अभी और सामान लेना है। दिनांक 02.02.2021 को जब प्रार्थिनी किचन में काम कर रही थी तब प्रार्थिनी की जेठानी आई और प्रार्थिनी को गंदी गंदी गालियां देते हुए मारने लगी इस घटना में जेठानी का सहयोग प्रार्थिनी की सास, जेठ, ननदोई, ननद आदि ने किया। प्रार्थिनी की चीख पुकार का उन लोगों पर कोई प्रभाव नहीं पड़ा वे सब प्रार्थिनी को भद्दी भद्दी गालियां देते हुआ मारते रहे और यह कहते रहे कि प्रार्थिनी मनहूस है और बकाया रूपया तीन लाख नहीं देगी तो आग लगा जला कर मार देंगे। उक्त घटना के बाद प्रार्थिनी के पति (विपक्षी) ने प्रार्थिनी को एक किराए के कमरे में ले जाकर छोड़ दिया, जिसमें प्रार्थिनी 20 दिन तक अकेली रही। प्रार्थिनी द्वारा कई बार अपने ससुरालवालों से बात करने की क्रोशिश की गई परन्तु किसी ने भी प्रार्थिनी से बात नहीं किया। दो हफ्ते बाद किसी प्रकार जब बात हुई तो प्रार्थिनी

को फिर से ₹ 50,000/- की मांग की गई। प्रार्थिनी इस दुर्व्यवाह से शारीरिक व मानसिक रूप से बीमार हो गई। आखिरकार प्रार्थिनी ने अपने मायके वालों से बात की और सारी घटना बताई तो प्रार्थिनी को उसके भाई ने दिनांक 21.02.2021 को प्रार्थिनी को मायके लखनऊ ले आये तब से प्रार्थिनी मायके में रह रही है। प्रार्थिनी एक घरेलू महिला है जिसके पास आय का कोई साधन नहीं है। विपक्षी फलों का विक्रेता एवं विरण का व्यवसायी है जिससे उसके ₹ 60,000/- प्रतिमाह की आय होती एवं विपक्षी का एक निजी मकान, बैंक बैलेन्स, प्लॉट है जिससे भी विपक्षी लगभग ₹ 40,000/- प्रतिमाह की आय अर्जित करता है। विपक्षी की पारिवारिक आय लगभग दो लाख रूपया प्रतिमाह है। अतः प्रार्थिनी द्वारा स्वयं हेतु मु० 50,000/- ₹० प्रतिमाह अन्तरिम भरण-पोषण विपक्षी से दिलाये जाने की याचना की है।

विपक्षी द्वारा अपनी आपत्ति कागज सं० सी 22 मय शपथ पत्र को प्रस्तुत कर कथन किया गया है कि, विपक्षी ज्यादा पढ़ा लिखा व्यक्ति नहीं है और न ही उसके पास कोई डिग्री है। प्रार्थिनी भी कक्षा 12 उत्तीर्ण है। विवाह बिना दान दहेज लिए सम्पन्न हुआ था। प्रार्थिनी ने कभी भी अपने पत्नी धर्म का निर्वाहन नहीं किया, बात-बात पर शुरूआत से ही विपक्षी से झगड़ा करती थी। विपक्षी व उसके माता पिता एवं परिवार के अन्य सदस्यगण प्रार्थिनी के बर्ताव से परेशान रहते थे। विपक्षी व प्रार्थिनी एक अलग कमरे में दिनांक 22.07.2021 से किराये पर निवास कर रहे थे। यह कहना गलत है कि प्रार्थिनी को कभी भी किसी किराये के मकान में अकेला छोड़ दिया हो। प्रार्थिनी एक घरेलू महिला है जो सिलाई, कढ़ाई के काम में निपुण है और सिलाई, कढ़ाई का काम लखनऊ में करती है जिससे उसका सारा खर्चा निकल आता है जबकि विपक्षी जो कि एक बेरोजगार व्यक्ति है जो विवाह से पहले ड्राइवर का कार्य करता था। विपक्षी ने फलों का व्यवसाय किया था जो कि बन्द हो चुका है और ओई आय का साधन अब नहीं बचा है। विपक्षी की कोई पारिवारिक आय नहीं है। विपक्षी द्वारा उपरोक्त परिस्थितियों के आधार पर प्रार्थना पत्र सव्यय खारिज करने की याचना की गयी है।

उभयपक्ष द्वारा माननीय उच्चतम न्यायालय द्वारा क्रिमिनल अपील नंबर- 730/2020 रजनेश बनाम नेहा और आदि के मामले में दिये गये निर्देश के अनुपालन में शपथपत्र प्रस्तुत किया गया है।

माननीय उच्च न्यायालय की विधि व्यवस्था 2023 AHC 157 113 पारूल त्यागी बनाम गौरव त्यागी में दिये गये दिशा-निर्देश के अनुक्रम में पत्रावली का संक्षिप्त विवरण इस प्रकार है कि वादिनी द्वारा प्रार्थना पत्र कागज सं० ग-4 दिनांक 05.10.2021 को प्रस्तुत किया गया। विपक्षी पैरवी उपरान्त दिनांक 07.12.2021 को न्यायालय में उपस्थित आया। तदोपरान्त विपक्षी द्वारा आपत्ति दिनांक 05.06.2024 को प्रस्तुत की गयी। उभयपक्ष को प्रार्थना पत्र ग-4 पर दिनांक 20.08.2025 को सुना गया तथा पत्रावली लंच पश्चात आदेश हेतु नियत की गयी।

वादिनी का कथन है कि विपक्षी फलों का विक्रेता एवं विरण का व्यवसायी है जिससे उसके ₹ 60,000/- प्रतिमाह की आय होती एवं विपक्षी का एक निजी मकान, बैंक बैलेन्स, प्लॉट है जिससे भी विपक्षी लगभग ₹ 40,000/- प्रतिमाह की आय अर्जित करता है। विपक्षी का कथन है की, विपक्षी एक बेरोजगार व्यक्ति है जो विवाह से पहले ड्राइवर का कार्य करता था। विपक्षी ने फलों का व्यवसाय किया था जो कि बन्द हो चुका है और कोई आय का साधन अब नहीं बचा है।

उभयपक्ष द्वारा एक दूसरे पर लगाये गये आरोपों का निस्तारण गुण-दोष के आधार पर साक्ष्य उपरान्त ही सम्भव है।

उभयपक्ष द्वारा एक दूसरे की आय के सम्बन्ध में कोई भी अभिलेखीय साक्ष्य प्रस्तुत नहीं किया गया है।

यदि यह मान लिया जाए कि विपक्षी वर्तमान समय में मजदूरी भी करता है, तो वर्तमान परिवेश में वह न्यूनतम मु० 500/- रुपये प्रतिदिन प्राप्त करता होगा। यदि एक मजदूर एक माह में 25 दिन भी काम करता है तो वह (500x25=12,500/-) रुपये अवश्य कमाता होगा। उभयपक्ष द्वारा यह तथ्य निर्विवाद रूप से स्वीकृत है कि वह पति-पत्नी है तथा पति होने के नाते यह विपक्षी का दायित्व है कि वह अपनी पत्नी का भरण-पोषण अपनी हैसियत के मुताबिक करना सुनिश्चित करें। अतः उपरोक्त तथ्यों एवं परिस्थितियों में वादिनी का प्रार्थना पत्र कागज सं० ग -4 वास्ते अंतरिम भरण-पोषण आंशिक रूप से स्वीकार किये जाने योग्य है।

आदेश

अंतरिम भरण-पोषण प्रार्थना पत्र ग-4 आंशिक रूप से स्वीकार किया जाता है। विपक्षी को आदेशित किया जाता है,

कि वह प्रार्थिनी को मु० 2500/- रुपये (दो हजार पांच सौ रुपये) बतौर अंतरिम भरण पोषण धनराशि दौरान वाद प्रतिमाह प्रदान करें। उक्त भरण-पोषण की धनराशि प्रार्थनापत्र प्रस्तुत करने के दिनांक से प्रदान की जायेगी। उक्त धनराशि प्रत्येक अंग्रेजी माह की 10 तारीख तक देय होगी। अवशेष धनराशि अंदर पाँच माह अदा करें।

यदि विपक्षी द्वारा कोई धनराशि किसी अन्य वाद में अदा की गयी है तो वह धनराशि इस भरण-पोषण की धनराशि में समायोजित की जायेगी।

विपक्षी द्वारा उपरोक्त धनराशि अदा नहीं करने पर वादिनी प्रार्थना पत्र प्रस्तुत कर प्राप्त करने की अधिकारिणी होगी। प्रार्थना पत्र प्रस्तुत करने पर विपक्षी द्वारा अदायगी ना किये जाने पर वह प्रत्येक चूक के लिए एक माह के कारावास से दण्डित किया जा सकता है। तथा भरण-पोषण की धनराशि अर्थदण्ड की भाँति वसूल की जा सकती है।

पत्रावली वास्ते साक्ष्य वादिनी दिनांक 10.09.2025 को पेश हो।"

4. It is to be noted that in the application preferred in terms of Section 125 Cr.P.C., the opposite party No. 2 has prayed for a direction to the revisionist to pay Rs. 50,000/- per month towards maintenance on the basis of the allegations/averments to the effect that the revisionist earns Rs. One Lakh per month. The relevant paragraphs of the application in this regard are extracted hereunder:-

"25. यह कि विपक्षी / प्रतिवादी सं०-1 फलों का विक्रेता एवं वितरण का व्यवसायी है जिससे उसे रु० 60,000/- प्रतिमाह आय होती है एवं विपक्षी का एक निजी मकान, बैंक बैलेन्स, प्लॉट है जिससे भी विपक्षी सं०-1 लगभग रु० 40,000/- प्रतिमाह की आय होती है। विपक्षी सं०-1 की पारिवारिक आय लगभग- दो लाख रूपया प्रतिमाह है। 26. यह कि विपक्षी / प्रतिवादी सं०-1 की कानूनी एवं नैतिक जिम्मेदारी है कि प्रार्थिनी के भरण-पोषण का प्रबन्ध करें जो विपक्षी सं०-1 अभी तक नहीं कर रहा है।

26. यह कि विपक्षी/प्रतिवादी सं०-1 की कानूनी एवं नैतिक जिम्मेदारी है कि प्रार्थिनी के भरण-पोषण का प्रबन्ध करें जो विपक्षी सं०-1 अभी तक नहीं कर रहा है।

27. यह कि प्रार्थिनी व विपक्षी/प्रतिवादी सं०-1 के मध्य अभी तलाक नहीं हुआ है वह विपक्षी / प्रतिवादी सं०-1 की विवाहिता पत्नी है।

28. यह कि प्रार्थिनी / शपथिनी को जीवन यापन, भरण-पोषण, भोजन, कपडे व चिकित्सा एवं रहने के उचित स्थान क लिए खर्च हेतु मुबलिंग रूपया 50,000/- प्रतिमाह विपक्षी सं०-1 से दिलाया जाना न्यायहित में आवश्यक है जिससे प्रार्थिनी को जीवन-यापन हो सके।"

5. Impeaching the order under challenge dated 20.08.2025, learned counsel for the revisionist states that the Family Court erred in fact and law both while passing the impugned order dated 20.08.2025.

6. He however could not point out any illegality in the impugned order dated 20.08.2025 and says that matter may be referred to Mediation and Conciliation Centre of this Court to resolve the dispute amicably by way of mediation and he says that in this regard the revisionist would deposit Rs. 25,000/- before the Mediation and Conciliation Centre of this Court. This Court is not impressed as in terms of the impugned order dated 20.08.2025 the opposite party No. 2 is entitled to about Rs. 1,20,000/- for the reason that from the record it appears the application under Section 125 Cr.P.C. was filed in the month of October, 2021 and the amount indicated by the counsel for the revisionist in view of the same is not reasonable.

7. Learned AGA however opposed the instant revision. Supporting the

order impugned dated 20.08.2025 passed by the Family Court, it is stated that the same is just and proper and being so is not liable to be interfered with by this Court.

8. Considered the aforesaid and perused the records.

9. Before entering into the facts of the case, it would be apt to refer the observations made by the Hon'ble Apex Court in relation to dealing with the applications under Section 125 Cr.P.C.

10. The Hon'ble Apex Court in the case of **Anju Garg and another vs. Deepak Kumar Garg**, reported in **2022 SCC OnLine SC 1314**, observed as under:-

*"9. At the outset, it may be noted that Section 125 of Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman who is required to leave the matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children, as observed by this Court in **Bhuvan Mohan Singh v. Meena (2015) 6 SCC 353**. This Court in the said case, after referring to the earlier decisions, has reiterated the principle of law as to how the proceedings under Section 125 Cr.P.C have to be dealt with by the Court. It held as under:*

*"In **Dukhtar Jahan v. Mohd. Farooq [(1987) 1 SCC 624 : 1987 SCC (Cri) 237]** the Court opined that : (SCC p. 631, para 16)*

16. "... Proceedings under Section 125 [of the Code], it must be remembered, are of a summary nature and are intended to enable destitute wives and children, the latter whether they are legitimate or illegitimate, to get maintenance in a speedy manner."

*8. A three-Judge Bench in **Vimala (K.) v. Veeraswamy (K.) [(1991) 2 SCC 375 : 1991 SCC (Cri) 442]**, while discussing about the basic purpose under Section 125 of the Code, opined that : (SCC p. 378, para 3)*

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."

*9. A two-Judge Bench in **Kirtikant D. Vadodaria v. State of Gujarat [(1996) 4 SCC 479 : 1996 SCC (Cri) 762]**, while advertng to the dominant purpose behind Section 125 of the Code, ruled that : (SCC p. 489, para 15)*

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."

*10. In **Chaturbhuj v. Sita Bai [(2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356]**, reiterating the legal position the Court held : (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 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]**."

11. Recently in **Nagendrappa Natikar v. Neelamma [(2014) 14 SCC 452 : (2015) 1 SCC (Cri) 407 : (2015) 1 SCC (Civ) 346]**, it has been stated that it is a piece of social legislation which provides for a summary and speedy relief by way of maintenance to a wife who is unable to maintain herself and her children".

10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In **Chaturbhuj v. Sita Bai (2008) 2 SCC 316**, it has been 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. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India."

11. In the case of **Sanjeev Kapoor vs. Chandana Kapoor and others**, reported in **(2020) 13 SCC 172**, the Hon'ble Apex Court while considering the applicability of Section 362 Cr.P.C. in relation to the proceedings/case instituted under Section 125 Cr.P.C., on the "aims and objects" of Section 125 Cr.P.C., observed as under:-

"23. Before we proceed to look into the legislative scheme of Section 125 CrPC, we need to notice few rules of interpretation of statutes when the court is concerned with the interpretation of a social justice legislation. Section 125 CrPC is a social justice legislation which orders for maintenance for wives, children and parents. Maintenance of wives, children and parents is a continuous obligation enforced. This Court had occasion to consider the interpretation of Section 125 CrPC in **Badshah v. Urmila Badshah Godse [Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188 : (2014) 1 SCC (Civ) 51]** . In paras 13.3 to 18, the following has been laid down: (SCC pp. 196-98)

"13.3. Thirdly, in such cases, 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 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 the social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society.

14. Of late, in this very direction, it is emphasised that the courts have to adopt different approaches in "social justice adjudication", which is also known as "social context adjudication" as mere "adversarial approach" may not be very appropriate. There are number of social justice legislations giving special protection and benefits to vulnerable groups in the society. Prof. Madhava Menon describes it eloquently:

'It is, therefore, respectfully submitted that "social context judging" is essentially the application of equality jurisprudence as evolved by Parliament and the Supreme Court in myriad situations presented before courts where unequal parties are pitted in adversarial proceedings and where courts are called upon to dispense equal justice. Apart from the social-economic inequalities accentuating the disabilities of the poor in an unequal fight, the adversarial process itself operates to the disadvantage of the weaker party. In such a situation, the Judge has to be not only sensitive to the inequalities of parties involved but also positively inclined to the weaker party if the imbalance were not to result in miscarriage of justice. This result is achieved by what we call social context judging or social justice adjudication. [Keynote address on "Legal Education in Social Context" delivered at National Law University, Jodhpur on 12-10-2005, available on last accessed 25-12-2013.] '

15. The provision of maintenance would definitely fall in this category which aims at empowering the destitute and achieving social justice or equality and dignity of the individual. While dealing with cases under this provision, drift in the approach from "adversarial" litigation to social context adjudication is the need of the hour.

16. The law regulates relationships between people. It prescribes patterns of behaviour. It reflects the values of society. The role of the court is to understand the purpose of law in society and to help the law achieve its purpose. But the law of a society is a living organism. It is based on a given factual and social reality that is constantly changing. Sometimes change in law precedes societal change and is even intended to stimulate it. In most cases, however, a change in law is the result of a change in social reality. Indeed, when social reality changes, the law must change too. Just as change in social reality is the law of life, responsiveness to change in social reality is the life of the law. It can be said that the history of law is the history of adapting the law to society's changing needs. In both constitutional and statutory interpretation, the court is supposed to exercise discretion in determining the proper relationship between the subjective and objective purposes of the law.

17. Cardozo acknowledges in his classic [Benjamin N. Cardozo, The Nature of Judicial Process (Yale University Press, New Haven, 1921).]

'... no system of jus scriptum has been able to escape the need of it.'

and he elaborates:

'It is true that codes and statutes do not render the Judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. ... There are hardships and wrongs to be mitigated if not avoided. Interpretation is often spoken of as if it were nothing but the search and the discovery of a meaning which, however obscure and latent, had nonetheless a real and ascertainable pre-existence in the legislator's mind. The process is, indeed, that at times, but it is often something more. The ascertainment of intention may be the least of a Judge's troubles in ascribing meaning to a statute. ...

Says Gray in his lectures [John Chipman Gray, The Nature and Sources of the Law.] :

"The fact is that the difficulties of so-called interpretation arise when the legislature has had no meaning at all; when the question which is raised on the statute never occurred to it; when what the Judges have to do is, not to determine that the legislature did mean on a point which was present to its mind, but to guess what it would have intended on a point not present to its mind, if the point had been present."

18. The court as the interpreter of law is supposed to supply omissions, correct uncertainties, and harmonise results with justice through a method of free decision — libre recherche scientifique i.e. "free scientific research". We are of the opinion that there is a non-rebuttable presumption that the legislature while making a provision like Section 125 CrPC, to fulfil its constitutional duty in good faith, had always intended to give relief to the woman becoming "wife" under such circumstances. This approach is particularly needed while deciding the issues relating to gender justice. We already have examples of exemplary efforts in this regard. Journey from Shah Bano [Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 SCC 556 : 1985 SCC (Cri) 245] to Shabana Bano [Shabana Bano v. Imran Khan, (2010) 1 SCC 666 : (2010) 1 SCC (Civ) 216 : (2010) 1 SCC (Cri) 873] guaranteeing maintenance rights to Muslim women is a classical example.

24. The closer look at Section 125 CrPC itself indicates that the court after passing judgment or final order in the proceedings under Section 125 CrPC does not become functus officio. The section itself contains express provisions where order passed under Section 125 CrPC can be cancelled or altered which is noticeable from Sections 125(1), 125(5) and 127 CrPC, which are to the following effect:

"125. Order for maintenance of wives, children and parents.—(1) If any person having sufficient means neglects or refuses to maintain—

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or

mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the First Class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses for proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation.—For the purposes of this Chapter—

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

127. Alteration in allowance.—(1) On proof of a change in the circumstances of any person, receiving, under Section 125 a monthly allowance for the maintenance or interim maintenance, or ordered under the same section to pay a monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be.

(2) Where it appears to the Magistrate that, in consequence of any decision of a competent civil court, any order made under Section 125 should be

cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

(3) Where any order has been made under Section 125 in favour of a woman who has been divorced by, or has obtained a divorce from, her husband, the Magistrate shall, if he is satisfied that—

(a) the woman has, after the date of such divorce, remarried, cancel such order as from the date of her remarriage.

(b) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce, cancel such order—

(i) in the case where such sum was paid before such order, from the date on which such order was made,

(ii) in any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(c) the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to maintenance or interim maintenance, as the case may be after her divorce, cancel the order from the date thereof.

(4) At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom monthly allowance for the maintenance and interim maintenance or any of them has been ordered to be paid under Section 125, the civil court shall take into account that sum which has been paid to, or recovered by, such person as monthly allowance for the maintenance and interim maintenance or any of them, as the case may be, in pursuance of the said order."

25. In Section 125 CrPC the expression used is "as the Magistrate may from time to time direct". The use of the expression "from time to time" has purpose and meaning. It clearly contemplates that with regard to the order passed under Section 125(1) CrPC, the Magistrate may have to exercise jurisdiction from time to time. Use of the expression "from time to time" is in exercise of jurisdiction of the Magistrate in a particular case. Advanced Law Lexicon by P. Ramanatha Aiyar, 3rd Edn. defines "time to time" as follows:

"Time to time. As occasion arises."

26. The above legislative scheme indicates that the Magistrate does not become functus officio after passing an order under Section 125 CrPC, as and when the occasion arises the Magistrate exercises the jurisdiction from time to time. By Section 125(5) CrPC, the Magistrate is expressly empowered to cancel an order passed under Section 125(1) CrPC on fulfilment of certain conditions.

27. Section 127 CrPC also discloses the legislative intendment where the Magistrate is empowered to alter an order passed under Section 125 CrPC. Sub-section (2) of Section 127 CrPC also empowers the Magistrate to cancel or vary an order under Section 125. The legislative scheme as delineated by Sections 125 and 127 CrPC as noted above

clearly enumerated the circumstances and incidents provided in the Code of Criminal Procedure where the court passing a judgment or final order disposing of the case can alter or review the same. The embargo as contained in Section 362 is, thus, clearly relaxed in the proceedings under Section 125 CrPC as indicated above.

28. The submissions which have been pressed by the learned counsel for the appellant were founded only on embargo of Section 362 and when embargo of Section 362 is expressly relaxed in the proceedings under Section 125 CrPC, we are not persuaded to accept the submission of the counsel for the appellant that the Family Court was not entitled to set aside and cancel its order dated 6-5-2017 in the facts and circumstances of the present case."

12. In the case of *Chander Parkash Bodh Raj vs. Shila Rani Chander Prakash*: 1968 SCC Online Del 52, the Delhi High Court has held that :

"an able-bodied young man has to be presumed to be capable of earning sufficient money so as to be able to reasonably 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."

13. The Hon'ble Apex Court in the case of *Rajnesh vs. Neha*, (2021) 2 SCC 324 has approved the above law laid down by the Delhi High Court. The relevant paragraphs of the judgment read as under:-

"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 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 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 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 *Kalpna Das v. Sarat Kumar Das* [*Kalpna 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, (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 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.

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 [Sushila Viresh Chhadva v. Viresh Nagshi Chhadva, 1995 SCC OnLine Bom 315 : AIR 1996 Bom 94] 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.”

115. An application for execution of an order of maintenance can be filed under the following provisions:

(a) Section 28-A of the Hindu Marriage Act, 1955 read with Section 18 of the Family Courts Act, 1984 and Order 21 Rule 94 CPC for executing an order passed under Section 24 of the Hindu Marriage Act (before the Family Court);

(b) Section 20(6) of the DV Act (before the Judicial Magistrate); and

(c) Section 128 CrPC before the Magistrate's Court.

116. Section 18 of the Family Courts Act, 1984 provides that orders passed by the Family Court shall be executable in accordance with the CPC/CrPC.

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.”

14. This Court also considered the observations made by the Hon'ble Apex Court in the case of **Rina Kumari v. Dinesh Kumar Mahto, (2025) 3 SCC 33**.

15. The Hon'ble Apex Court in **Kulbhushan Kumar Vs. Raj Kumari, (1970) 3 SCC 129** has held that 25% of the husband's net salary would be just and proper to be awarded as maintenance allowance to the wife. The amount of permanent alimony awarded to the wife must be befitting the status of the parties and the financial capacity of the husband to make the payment.

16. In **Kalyan Dey Chaudhary Vs. Rita Dey Chaudhary Nee Nandy, (2017) 14 SCC 200**, the Hon'ble Apex Court has followed the quantum of maintenance fixed by the Hon'ble Apex Court in **Kulbhushan Kumar (supra)** that 25% of net income of the husband should be paid to the wife as maintenance.

17. Considered the aforesaid including the judgments, referred above, and the amount awarded by the Family Court i.e. Rs. 2500/- per month to the opposite party No. 2 after recording sufficient reasons in this regard in the impugned order dated 20.08.2025 regarding financial status of the revisionist.

18. Upon due consideration of the aforesaid, this Court finds no illegality, irregularity, or jurisdictional error in the order impugned dated 20.08.2025 for the reason that a meagre amount i.e. Rs. 2500/- per month has been awarded by the Family Court to the opposite party No. 2 towards the amount of maintenance.

19. The instant revision is accordingly **dismissed**. No order as to costs.

20. The copy of the order be sent to the Court concerned forthwith.

(Saurabh Lavania,J.)

November 24, 2025

Arun/-