2026:MHC:4769

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.11.2026

PRONOUNCED ON : 27.11.2026

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THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 1223 of 2025

CNR: {HCMA011408432025}

Case QR

..Petitioner(s)

Vs

..Respondent(s)

Prayer:- This Criminal Revision Case is filed to set aside the order, dated 30.09.2024, passed in MC.No.386 of 2019, by the VI Additional Famil Judge, Chennai.

For Petitioner(s): Mr.Prasad Vijayakumar for Ms.R.Rachana

For Respondent(s): Mr.N.S.Sriram Prabhu for Mr. P.Anbarasan

ORDER

1. This Criminal Revision Case is filed to set aside the order, dated 30.09.2024, passed in MC.No.386 of 2019, by the VI Additional Family Court, Chennai.

2. The facts of the case, as set out in the affidavit filed in support of this Criminal Revision Case, are as follows:-

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(a) The Revision Petitioner is the wife and the Respondent is the husband and their marriage was performed on 02.03.1998, according to Hindu rites and customs. Out of the wedlock, a female child, named T.Madhumithra was born on 30.11.1999, to them and both of them jointly owned several properties. The Respondent deserted the Revision Petitioner and their daughter and re-married another woman, while the marriage between the Revision Petitioner and the Respondent is still in subsistence.Through the said relationship, the Respondent has three male children.

(b) Both the Revision Petitioner and the Respondent had filed a divorce petition on mutual consent in HMOP.No.2738 of 2018, before the Trial Court, which was dismissed on 26.03.2019, on the ground that the Revision Petitioner gave a complaint to the Court that she was coerced to give her consent for mutual divorce.

(c) Thereafter, the Revision Petitioner had filed MC.No.386 of 2019, before the VI Additional Family Court, Chennai, seeking maintenance under Section 125 of Cr.PC. By the impugned order, dated 30.09.2024, the Trial Court had dismissed the said maintenance petition, on the grounds that there was no valid marriage solemnized between the Revision Petitioner and the Respondent and that as the Revision Petitioner, being a Government Employee, is having stable income, she is able to maintain herself and the daughter and that the Revision Petitioner is neither a

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destitute nor in danger of vagrancy. As against the same, this Criminal Revision Case, has been filed by the Revision Petitioner/Wife.

3. This Court heard Mr.Prasad Vijayakumar for Ms.R.Rachana, the learned counsel for the Revision Petitioner and Mr.N.S.Sriram Prabhu for Mr.P.Anbarasan, the learned counsel for the Respondent.

4. The learned counsel for the Revision Petitioner has submitted that though the matter was referred to mediation, at the request of the learned counsel for the parties, settlement could not be arrived at before the Mediation Centre, because of non-cooperation of the Respondent/ husband.

5. The learned counsel for the Revision Petitioner has further submitted that the Trial Court, while considering the documents marked as Ex.P1-Birth Certificate of the daughter, Ex.P10-Ration Card, Ex.P11-Voter ID, Ex.P2-Power of Attorney and Ex.P4-Mutual Divorce Petition, had noticed that the Revision Petitioner was described as the wife of the Respondent in the said documents, however, despite noticing the said documentary evidence and the long-standing relationship between the parties, the Trial Court had erroneously declined to grant maintenance on the grounds that the Revision Petitioner, being a Government Employee, is having stable income and that she is neither a destitute nor in danger of vagrancy and that she is able to maintain herself.

6. The learned counsel for the Revision Petitioner has further submitted that due to unforeseen circumstances and lack of proper legal assistance, at the

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relevant point of time, the Revision Petitioner could not produce all the documents relating to the marriage before the Trial Court. The Revision Petitioner has now produced additional documents, including the engagement photographs, marriage invitation and the sale deeds, dated 01.07.2003 and 06.07.2005, to substantiate her marital relationship with the Respondent. The learned counsel has further contended that the Respondent had himself acknowledged the relationship between the parties in several public and property-related documents.

7. The learned counsel for the Revision Petitioner has further submitted that the Revision Petitioner and the Respondent lived together, as husband and wife for a considerable period and a female child was born out of the said relationship and that therefore, a strong presumption of marriage arises in favour of the Revision Petitioner and that such presumption cannot be displaced by a mere denial of the marriage by the Respondent.

8. The learned counsel for the Revision Petitioner has further submitted that the Revision Petitioner was unemployed, at the time of filing the maintenance petition and that, subsequently, she secured employment in the Government Service and is presently earning approximately Rs.31,000/- per month and that merely because the wife is employed and earning some income, she cannot be denied maintenance and that the Court has to analyse whether her income is sufficient to maintain herself, in accordance with the status and the standard of living enjoyed, during the matrimonial relationship.

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9. The learned counsel for the Revision Petitioner has further submitted that the Respondent is working as a Professor in a reputed College and is also running two tuition centres in the names of Murugan Educational Institute and Kelvin Academy and that the Respondent earns approximately Rs.5,00,000/- per month from various sources and therefore, the Respondent has sufficient financial means to maintain the Revision Petitioner.

10. The learned counsel for the Revision Petitioner has further submitted that the daughter, Madhumithra, had also filed a separate maintenance petition in MC.No.388 of 2019 before the very same Family Court, which, by the order dated 30.09.2024. on the basis of Ex.P1 Birth Certificate, Ex.P10 Ration Card, Ex.P3 Power of Attorney document, Ex.P11 Aadhar Card, had held that the Petitioner therein, Madhumithra is the daughter of the Respondent and considering the assets, liabilities and the financial capacity of the Respondent, had granted a maintenance of Rs.25,000/- p.m to the daughter from the date of filing of the petition till completion of her MCA Degree and for one year thereafter and also granted a sum of Rs.25,000/- per year from 2020, as educational expenses, till completion of her MCA studies.

11. The learned counsel for the Revision Petitioner has further submitted that as against the order of the Trial Court, dated 30.09.2024, passed in MC.No.388 of 2019, granting maintenance to the daughter, the Respondent/Husband had filed Crl.RC.No.1146 of 2025, before this Court and that this Court, by the order dated, 22.07.2025, had dismissed the said Criminal Revision Case filed

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by the Respondent and that the Coordinate Bench of this Court, upon consideration of the materials available on record, had held that the Respondent was working as a Professor and his monthly earning is Rs.1,30,000/- and he receives a sum of Rs.2,00,000/- to Rs.5,00,000/- p.m. as rental income and that apart, he is also owning immovable properties and thus, it was ascertained by the Coordinate Bench of this Court that the Respondent has sufficient means to maintain the daughter.

12.The learned counsel for the Revision Petitioner has further submitted that both the maintenance cases filed by the mother and the daughter were disposed of by the same Family Court, on the same day, i.e. on 30.09.2024 and that while the Trial Court had accepted the relationship between the parties and granted maintenance to the daughter, the Trial Court was not justified in refusing to award maintenance to the mother, particularly, when the Respondent had sufficient means, as ascertained by the Coordinate Bench of this Court, by the order, dated 22.07.2025, in Crl.RC.No.1146 of 2025 and hence, the impugned order is liable to be set aside and consequently, a reasonable maintenance be granted to the Revision Petitioner/wife, considering the financial status of the Respondent, by allowing this Criminal Revision Case.

13.The learned counsel for the Revision Petitioner, in support of his contentions, has relied on the following decisions:-

i. (2021) 2 SCC 324 (Rajnesh Vs. Neha)

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ii. (2008) 2 SCC 316 (Chaturbhuj Vs. Sita Bai)
iii. (2007) SCCC 622 (Bharat Hegde Vs. SarojHegde)
iv. (2018) 12 SCC 199 (Shailja&Anr. Vs. Khobbanna Sunita)
v. (2014) 16 SCC 715 (Kachwaha&ors., Vs. Anil Kachwaha).

14. On the other hand, the learned counsel for the Respondent has submitted that the Revision Petitioner was working as a housemaid of the Respondent and the Respondent never married the Revision Petitioner and that the Respondent got married to another women on 13.05.2011 and the said fact is well known to the Revision Petitioner and that the Revision Petitioner is taking hectic efforts, by filing false complaints and frivolous petitions one after the another, only with the sole intention of extracting money from the Respondent and hence, the Respondent is not liable to pay any maintenance to the Revision Petitioner and therefore, this Criminal Revision Case is liable to be dismissed.

15. This Court considered the submissions of the learned counsel for the parties and also perused the entire materials placed on record.

16. The questions that arise for consideration in this Criminal Revision Case are as follows:-

i. **Whether the Revision Petitioner has established her marital relationship, with the Respondent for the purpose of claiming maintenance under Section 125 of Cr.PC (Section 144 of BNSS)?**
ii. **Whether the Revision Petitioner, being a Government employee and earning Rs.31,000/- per month, is disentitled from claiming maintenance?**
iii. **Whether the Respondent has sufficient means to maintain the**

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Revision Petitioner"

iv. **Whether the impugned order, dismissing the maintenance petition, filed the Revision Petitioner/wife, is sustainable in law?**

v. **If the above questions are answered, in favour of the Revision Petitioner, then the next question is that what quantum of maintenance to be awarded to the Revision Petitioner?**

17. At the outset, it is relevant to consider the object and purpose of Section 125 Cr.PC (Section 144 of BNSS), which reads as under:-

> *"**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*

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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 of 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, "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not re-married.

(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.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made :

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation. - If a husband has contracted marriage with another

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woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(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.

18.The object and purpose of the Provision of Section 125 of Cr.PC (Section 144 of BNSS) is to measure social justice, to prevent destitution and vagrancy and to provide financial support to a wife, children and parents, who are unable to maintain themselves. The provision has to be interpreted, in a manner that advances its beneficial object rather than defeating the very purpose, for which it was enacted. In **(2008) 2 SCC 316 (Chaturbhuj v. Sita Bai),** the Honourable Supreme Court had held that Section 125 of Cr.PC, is a measure of social justice and is intended to protect women and children. The expression "unable to maintain herself" does not mean that the wife must be completely destitute before she can apply for maintenance under Section 125 of Cr.PC. The test is whether the wife is in a position to maintain herself in the way she was used in the place of her husband.

19. Question (i):- Whether the Revision Petitioner has established her marital relationship, with the Respondent for the purpose of claiming maintenance under Section 125 of Cr.PC (Section 144 of BNSS)?

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20.In the present case, the marriage between the Revision Petitioner and the Respondent is stated to have been solemnized on 02.03.1998. Admittedly, a female child, namely, T.Madhumithra, was born on 30.11.1999. The birth certificate of the child, ration card, voter identity document, power of attorney and the mutual consent divorce petition contain descriptions and recitals, identifying the Revision Petitioner as the wife of the Respondent.

21.Though the Respondent has denied the marriage, the documents available on record disclose that the Revision Petitioner and the Respondent had been living together, as husband and wife and that their relationship was also acknowledged in the afresaid public and official documents. The Respondent has not satisfactorily explained the circumstances, under which the Revision Petitioner was consistently described, as his wife in the said documents.

22.In this regard, the judgment of the Honourable Supreme Court reported in (**1978)-3-SCC-527 (Badri Prasad v. Deputy Director of Consolidation)**, is relevant. The Honourable Supreme Court had held that a strong presumption arises in favour of wedlock, where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lis on him who seeks to deprive the relationship of legal origin.

23.The same principle was reiterated in the decision of the Honourable Supreme Court reported in (**2008)-4-SCC-520 (Tulsa v. Durghatiya)**, wherein the Honourable Supreme Court had held that continuous cohabitation of man and woman, as husband and wife and their treatment as such for a number

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of years may raise a presumption of marriage, but the presumption, which may be drawn from long cohabitation is rebuttable.

24.In **(2019)-11-SCC-491 (Kamala v. M.R. Mohan Kumar),** the Honourable Supreme Court had held as under:-

> *"**15.** Unlike matrimonial proceedings where strict proof of marriage is essential, in the proceedings under Section 125 CrPC, such strict standard of proof is not necessary as it is summary in nature meant to prevent vagrancy. In Dwarika Prasad Satpathy v. Bidyut Prava Dixit [Dwarika Prasad Satpathy v. Bidyut Prava Dixit, (1999) 7 SCC 675 : 1999 SCC (Cri) 1345] , this Court held that*
>
> *"27. ... the standard of proof of marriage in a Section 125 proceeding is not as strict as is required in a trial for an offence under Section 494 IPC. The learned Judges explained the reason for the aforesaid finding by holding that an order passed in an application under Section 125 does not really determine the rights and obligations of the parties as the section is enacted with a view to provide a summary remedy to neglected wives to obtain maintenance. The learned Judges held that maintenance cannot be denied where there was some evidence on which conclusions of living together could be reached." [**Ed.**: As observed in Chanmuniya case, (2011) 1 SCC 141, SCC p. 147, para 27.]*
>
> *When the parties live together as husband and wife, there is a presumption that they are legally married couple for claim of maintenance of wife under Section 125 CrPC. Applying the well-settled principles, in the case in hand, Appellant 1 and the respondent were living together as husband and wife and had also begotten two children. Appellant 1 being the wife of the respondent, she and the children, Appellants 2 and 3 would be entitled to maintenance under Section 125 CrPC.*
>
> ***16.** It is fairly well settled that the law presumes in favour of marriage and against concubinage when a man and woman have cohabited continuously for a number of years. After referring to various judgments, in Chanmuniya v. Virendra Kumar Singh Kushwaha [Chanmuniya v. Virendra Kumar Singh Kushwaha, (2011) 1 SCC 141 : (2011) 1 SCC (Civ) 53 : (2011) 2 SCC (Cri)*

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666] , this Court held as under: (SCC pp. 144-45, paras 11-16).

"11. Again, in Sastry Velaider Aronegary v. Sembecutty Vaigalie [Sastry Velaider Aronegary v. Sembecutty Vaigalie, (1881) LR 6 AC 364 (PC)] , it was held that where a man and woman are proved to have lived together as man and wife, the law will presume, unless the contrary is clearly proved, that they were living together in consequence of a valid marriage, and not in a state of concubinage.

12. In India, the same principles have been followed in Andrahennedige Dinohamy v. Wijetunge Liyanapatabendige Balahamy [Andrahennedige Dinohamy v. Wijetunge Liyanapatabendige Balahamy, 1927 SCC OnLine PC 51 : AIR 1927 PC 185] , in which the Privy Council laid down the general proposition that where a man and woman are proved to have lived together as man and wife, the law will presume, unless, the contrary is clearly proved, that they were living together in consequence of a valid marriage, and not in a state of concubinage.

13. In Mohabbat Ali Khan v. Mohd. Ibrahim Khan [Mohabbat Ali Khan v. Mohd. Ibrahim Khan, 1929 SCC OnLine PC 21 : (1928-29) 56 IA 201 : AIR 1929 PC 135] the Privy Council has laid down that the law presumes in favour of marriage and against concubinage when a man and woman have cohabited continuously for number of years.

14. In Gokal Chand v. Parvin Kumari [Gokal Chand v. Parvin Kumari, (1952) 1 SCC 713 : AIR 1952 SC 231] , this Court held that continuous cohabitation of man and woman as husband and wife may raise the presumption of marriage, but the presumption which may be drawn from long cohabitation is rebuttable and if there are circumstances which weaken and destroy that presumption, the Court cannot ignore them.

15. Further, in Badri Prasad v. Director of Consolidation [Badri Prasad v. Director of Consolidation, (1978) 3 SCC 527] , the Supreme Court held that a strong presumption arises in favour of wedlock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lies on him who seeks to deprive the relationship of legal origin.

16. Again, in Tulsa v. Durghatiya [Tulsa v. Durghatiya, (2008) 4

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SCC 520] , this Court held that where the partners lived together for a long spell as husband and wife, a presumption would arise in favour of a valid wedlock."

25. The aforesaid judgement of the Honourable Supreme Court reported in **(2019)-11-SCC-491 (Kamala v. M.R. Mohan Kumar), cited supra,** is directly relevant and can be made applicable to the facts of the present case, since the Revision Petitioner and the Respondent have lived together for several years and a daughter was born out of their relationship.

26. Applying the above principles to the facts of the present case, this Court is of the view that the documentary evidence available on record, coupled with the long-standing relationship between the parties and the birth of their daughter, gives rise to a strong presumption in favour of the marital relationship between the Revision Petitioner and the Respondent. Further, the Respondent has miserably failed to rebut the presumption of valid marriage between the Revision Petitioner and the Respondent, by valid evidence.

27. It is also relevant to note that the Respondent himself has stated that he married another woman on 13.05.2011. The case of the Revision Petitioner is that the Respondent deserted her and their daughter and contracted another marriage, while the marriage between them was still subsisting. In the absence of convincing evidence to displace the presumption, arising from the long-standing relationship and the documentary evidence, the mere denial of the marriage by the Respondent cannot be accepted. Therefore, this Court is of the view that the Revision Petitioner has sufficiently established her

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marital relationship with the Respondent for the purpose of claiming maintenance under Section 125 of Cr.PC (Section 144 of BNSS). **Accordingly, Question (i) is answered in favour of the Revision Petitioner.**

28.Question (ii):- Whether the Revision Petitioner, being a Government employee and earning Rs.31,000/- per month, is disentitled from claiming maintenance.

29.By the impugned order, the Trial Court had dismissed the maintenance petition, filed by the Revision Petitioner, mainly on the ground that the Revision Petitioner, being employed is earning a stable income and hence, she is able to maintain herself and that she is neither a destitute nor in danger of vagrancy. This Court is unable to accept the said reasoning, in view of the following judgements of the Honourable Supreme Court.

30.In (**2018)-12-SCC-199 (Shailja v. Khobbanna)**, the Honourable Supreme Court had held that merely because the wife is capable of earning, the same would not be sufficient to deny maintenance. The Court has to consider whether the income actually earned by the wife is sufficient to maintain herself.

31.Similarly, in (**2014)-16-SCC-715 (Sunita Kachwaha v. Anil Kachwaha),** the Honourable Supreme Court had held that merely because the wife is earning some income, it cannot be a ground to reject her claim for maintenance.

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32.In **(2021)-2-SCC-324 (Rajnesh v. Neha),** the Honourable Supreme Court has elaborately considered the principles, governing the grant of maintenance and laid down guidelines for determining the quantum of maintenance. The Honourable Supreme Court had held as follows:-

> *"**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. [Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7; Refer to Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290]*
>
> ***79.** In Manish Jain v. Akanksha Jain [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*

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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. [Reema Salkan v. Sumer Singh Salkan, (2019) 12 SCC 303 : (2018) 5 SCC (Civ) 596 : (2019) 4 SCC (Cri) 339]*

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.*

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

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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."

89. *Section 19(1)(f) of the DV Act provides that the Magistrate may pass a residence order inter alia directing the respondent to secure the same level of alternate accommodation for the aggrieved woman as enjoyed by her in the shared household. While passing such an order, the Magistrate may direct the respondent to pay the rent and other payments, having regard to the financial needs and resources of the parties.*

(c) Where wife is earning some income

90. *The courts have held that if the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband. The courts have provided guidance on this issue in the following judgments:*

90.1. *In Shailja v. Khobbanna [Shailja v. Khobbanna, (2018) 12 SCC 199 : (2018) 5 SCC (Civ) 308; See also the decision of the Karnataka High Court in P. Suresh v. S. Deepa, 2016 SCC OnLine Kar 8848 : 2016 Cri LJ 4794 (Kar)] , this Court held that merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court. The court has to determine whether the income of the wife is sufficient to enable her to maintain herself, in accordance with the lifestyle of her husband in the matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] Sustenance does not mean, and cannot be allowed to mean mere survival. [Vipul Lakhanpal v. Pooja Sharma, 2015 SCC OnLine HP 1252 : 2015 Cri LJ 3451]*

90.2. *In Sunita Kachwaha v. Anil Kachwaha [Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715 : (2015) 3 SCC (Civ) 753 : (2015) 3 SCC (Cri) 589] the wife had a postgraduate degree, and was employed as a teacher in Jabalpur. The husband raised a contention that since the wife had sufficient income, she would not*

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require financial assistance from the husband. The Supreme Court repelled this contention, and held that merely because the wife was earning some income, it could not be a ground to reject her claim for maintenance.

90.3. *The Bombay High Court in Sanjay Damodar Kale v. Kalyani Sanjay Kale [Sanjay Damodar Kale v. Kalyani Sanjay Kale, 2020 SCC OnLine Bom 694] while relying upon the judgment in Sunita Kachwaha [Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715 : (2015) 3 SCC (Civ) 753 : (2015) 3 SCC (Cri) 589] , held that neither the mere potential to earn, nor the actual earning of the wife, howsoever meagre, is sufficient to deny the claim of maintenance.*

90.4. *An able-bodied husband must be presumed to be capable of earning sufficient money to maintain his wife and children, and cannot contend that he is not in a position to earn sufficiently to maintain his family, as held by the Delhi High Court in Chander Parkash v. Shila Rani [Chander Parkash v. Shila Rani, 1968 SCC OnLine Del 52 : AIR 1968 Del 174] . The onus is on the husband to establish with necessary material that there are sufficient grounds to show that he is unable to maintain the family, and discharge his legal obligations for reasons beyond his control. If the husband does not disclose the exact amount of his income, an adverse inference may be drawn by the court.*

130. *For determining the quantum of maintenance payable to an applicant, the court shall take into account the criteria enumerated in Part B — III of the judgment. The aforesaid factors are however not exhaustive, and the court concerned may exercise its discretion to consider any other factor(s) which may be necessary or of relevance in the facts and circumstances of a case.“*

33.The object of Section 125 of Cr.PC (Section 144 of BNSS) is not to compel a wife to lead a life of deprivation, merely because she has some independent income. The Court must examine whether her income is sufficient to meet her reasonable needs and to maintain a standard of living reasonably, commensurate with the status of the matrimonial family.

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34.In the present case, the Revision Petitioner was unemployed at the time of filing the maintenance petition in the year 2019. Subsequently, she secured Government employment and is presently earning approximately Rs.31,000/- per month. Considering the standard of living, spiralling inflation rates and high costs of living, in the present scenario, it cannot be stated that the sum of Rs.31,000/- p.m. stated to be earning by the Revision Peittioner is sufficient. The mere fact that she has subsequently obtained employment cannot be a ground to completely deny her claim, in view of the above said principles laid down by the Honourable Supreme Court.

35.Therefore, the findings of the Trial Court that the Revision Petitioner is not entitled to maintenance merely, because she, being a Government employee, is earning a stable income of Rs.31,000/- per month and she is able to maintain herself, is contrary to the principles laid down by the Honourable Supreme Court, in the above said judgments. **Accordingly, Question (ii) is also answered in favour of the Revision Petitioner.**

36.Question (iii):- Whether the Respondent has sufficient means to maintain the Revision Petitioner?

37.The Revision Petitioner has contended that the Respondent is working as a Professor in a reputed College and is also running two tuition centres. More importantly, in the separate maintenance proceedings, initiated by the daughter in M.C.No.388 of 2019, the financial capacity of the Respondent was considered and ascertained by the very same Family Court, as stated

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above.

38.The order dated 30.09.2024 passed in M.C.No.388 of 2019, granting maintenance of Rs.25,000/- per month to the daughter, was challenged by the Respondent in Crl.R.C.No.1146 of 2025 before this Court. The said Criminal Revision Case was dismissed by this Court on 22.07.2025. In the said proceedings, the Coordinate Bench of this Court had considered the materials relating to the income and assets of the Respondent and recorded that he is earning approximately a sum of Rs.1,30,000/- per month as a Professor and is also receiving a rental income, ranging from Rs.2,00,000/- to Rs.5,00,000/- per month, apart from possessing immovable properties.

39.Though the said proceedings related to the maintenance claim of the daughter, the findings recorded therein regarding the financial capacity of the Respondent, by the Coordinate Bench of this Court, in Crl.RC.No.1146 of 2025, by the order, dated 22.07.2025, are relevant for considering the present claim of the Revision Petitioner/wife, in the present Criminal Revision Case. The Respondent has not placed any convincing material before this Court to establish that there has been a substantial change in his financial circumstances, warranting a different conclusion. Thus, it can be safely held that the Respondent has substantial financial resources and sufficient means to maintain the Revision Petitioner. **Accordingly, Question (iii) is also answered in favour of the Revision Petitioner.**

40.Question (iv):- Whether the impugned order, dismissing the

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maintenance petition, filed by the Revision Petitioner/wife, is sustainable in law?

41.It is pertinent to note that the daughter and the mother had filed separate maintenance petitions, arising out of the same matrimonial relationship. Both the petitions were disposed of by the same Family Court on 30.09.2024. While the Trial Court recognised the relationship between the parties and granted maintenance to the daughter, it rejected the claim of the mother on the grounds of insufficient proof of marriage and her employment.

42.This Court is of the view that the entitlement of the mother and daughter to maintenance has to be independently examined in accordance with law. However, the documentary evidence relied upon in both proceedings are substantially similar. The finding regarding the relationship between the parties and the financial capacity of the Respondent cannot be ignored, while considering the claim of the Revision Petitioner.

43.The fact that the Respondent has contracted another marriage, while the marital relationship with the Revision Petitioner is stated to be subsisting, is also a relevant circumstance. Under the Explanation to Section 125(3) Cr.P.C (Section 144(3) of BNSS)., where a husband has contracted marriage with another woman or keeps a mistress, it constitutes a just ground for the wife to refuse to live with him. Therefore, the Respondent cannot rely upon the Revision Petitioner's separate residence, as a ground to defeat her claim for maintenance.

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44.This Court is of the view that the Trial Court has adopted an unduly technical approach in considering the evidence relating to the marriage and has failed to properly appreciate the object of Section 125 of Cr.PC (Section 144 of BNSS). The Trial Court has also failed to consider the settled legal position that an earning wife is not automatically disentitled from claiming maintenance. The impugned order, therefore, suffers from material irregularity and an erroneous appreciation of the principles governing the grant of maintenance. Hence, the same warrants interference by this Court, in exercise of its revisional jurisdiction. Therefore, the impugned order is not sustainable in law. **Accordingly, Question (iv) is also answered in favour of the Revision Petitioner.**

45.Since it is held by this Court as stated above that the Revision Petitioner is entitled for maintenace, the next question (v) is the quantum of maintenance to be awarded to the Revision Petitioner?

46.As already discussed, the Revision Petitioner is presently earning approximately Rs.31,000/- per month. On the other hand, the Respondent is working as a Professor and, as recorded in Crl.R.C.No.1146 of 2025, is earning approximately Rs.1,30,000/- per month, apart from substantial rental income and other assets, ranging from Rs.2,00,000/- to Rs.5,00,000/- p.m.

47.The financial position of the Respondent is considerably stronger than that of the Revision Petitioner. The Revision Petitioner has been deserted by the Respondent and has been compelled to maintain herself independently. The

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fact that she has secured employment cannot absolve the Respondent of his obligation to provide reasonable financial support to her.

48. In **(2021)-2-SCC-324 (Rajnesh v. Neha)**, cited supra, the Honourable Supreme Court has held that the determination of maintenance must take into account the status of the parties, the reasonable needs of the wife, the income and assets of the husband, the liabilities of the parties and the standard of living enjoyed during the matrimonial relationship.

49. Taking into consideration the income of the Revision Petitioner, the substantial income and assets of the Respondent, the duration of the matrimonial relationship, the circumstances leading to their separation and the reasonable needs of the Revision Petitioner, this Court is of the view that a sum of Rs.25,000/- per month, as maintenance to the Revision Petitioner/wife, would be reasonable and appropriate. **Accordingly, Question (v) is also answered in favour of the Revision Petitioner.**

50. Accordingly, the Revision Petitioner is entitled to maintenance of **Rs.25,000/- per month** from the Respondent and the Respondent is directed to pay the aforesaid maintenance amount regularly from the month of November, 2026, onwards, without fail and the said amount shall paid by the Respondent to the Revision Petitioner, on or before **10th of every succeeding English Calendar Month.**

51. In view of the foregoing discussions, reasons and in the light of the decision of the Honourable Supreme Court, referred to above, this Court is of the view

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that the Revision Petitioner has established her entitlement to maintenance and that the impugned order, dismissing her maintenance petition, is unsustainable in law. Accordingly, this Criminal Revision Case is **allowed**. The impugned order dated 30.09.2024 passed in MC.No.386 of 2019 by the VI Additional Family Court, Chennai, is hereby **set aside.**

52.There is no order as to costs. The File is consigned to record.

53.The Registry of this Court is directed to send a copy of this order to the Trial Court, concerned, for its necessary compliance and information, forthwith.

27-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

SRCM

To

1. The VI Additional Famil Judge, Chennai.
2. The Public Prosecutor, Madras High Court, Chennai

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SHAMIM AHMED, J.

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