

- ABC 2025 (II) 631 Patna**
ACQUITTAL & BAIL CASES
HIGH COURT OF PATNA
(Bibek Chaudhuri,J.)
Criminal Appeal No. 676 of 2024
Decided On 4 September 2025
- RAVI PRAKASH SAXENA @ RAVI PRAKASH** - Appellant(s).
Versus
PRIYANKA RANI - Respondent(s).
- Law Covered:-** (A) Code of Criminal Procedure, 1973 - S. 125 (Bharatiya Nagarik Suraksha Sanhita, 2023 - S. 144) - Maintenance to Wife - Disclosure Affidavits of Assets and Liabilities - Mandatory Requirement - No affidavits filed as per Rajnish v. Neha guidelines - Impugned order passed mechanically without considering income, assets - Held, mandatory for parties to file disclosure affidavits - Failure vitiates order - Matter remanded for fresh decision after affidavits. (Paras 22-35)
- (B) Code of Criminal Procedure, 1973 - S. 125 - Maintenance - Wife's Entitlement - Capable of Earning but Not Earning - Suppression of Facts - Educated wife with potential earnings - Suppressed previous alimony, marital status - Desertion without cause - Held, capable wife may be entitled if unable to maintain - But consider suppression, previous alimony - Desertion disentitles - No proof of cruelty, delayed complaint - Order set aside. (Paras 12-28)
- (C) Code of Criminal Procedure, 1973 - S. 125 - Maintenance from Date of Application - Held, maintenance generally from date of application to avoid delay prejudice - As per Rajnish v. Neha. (Para 23)
- Facts:-** Petitioner challenged maintenance order of Rs.20,000 pm u/s 125 CrPC to divorcee wife. Marriage via matrimonial site, wife suppressed prior divorce and Rs.40 lakhs alimony. Allegations of fraud, cruelty unproved. Court found non-compliance with disclosure guidelines in Rajnish v. Neha, set aside order, remanded for fresh decision after affidavits.
- Law of relief:-** Considering Suppression of previous alimony, marital status - Maintenance order quashed and set aside.
- Counsel:-**
For Petitioner: Mr.Amit Mallick, Advocate.
For Respondent(s): Mrs.Shweta Priya, APP.

Cases Referred:-

1. *Rajnish v. Neha*: (2021) 2 SCC 324 (Paras 22, 23, 33) a
2. *Deb Narayan Halder v. Anushree Halder*: (2003) II SCC 303 (Para 24)
3. *Jasbir Kaur Sehgal v. District Judge, Dehradun*: (1997) 7 SCC 7 (Para 25)
4. *S.P. Chengalvaraya Naidu v. Jagannath*: (1994) I SCC I (Para 27) b
5. *Jaspreet Singh v. Gurleen Kaur*: (2020) SCC OnLine P&H 55 (Para 28)
6. *Sanjay Chandra vs.CBI*: (2012) 1 SCC 40 (Para 7 in quoted judgment)

JUDGMENT

Bibek Chaudhuri, J.:-

1. In the instant proceeding under Section 19 (4) of the Family Courts Act challenges a final order of maintenance passed by the learned Principal Judge, Family Court, Saran at Chapra on 24th of May, 2024 directing him to pay maintenance allowance to the opposite party / wife at the rate of Rs.20,000/ per month. d

2. It is not in dispute under the facts and circumstances of this case that the opposite party was a divorcee and her marriage with the petitioner was her second marriage. It also appears from the materials on record that the petitioner came to know the opposite party from a matrimonial site and their marriage was settled. It is stated by the petitioner that at the time of dissolution of first marriage, the opposite party got Rs. 40 Lakhs towards final settlement of alimony and she had adequate source and sufficient means to maintain herself independently. e
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3. The petitioner has alleged that the opposite party/wife is in the habit of duping different young men with the sole motive of earning huge amounts of money after marriage, either by way of alimony or claiming maintenance allowance. Even during the strained relation with the petitioner, the opposite party started to find out another person as a groom to whom she could marry. g

4. The petitioner has challenged the impugned order of maintenance directing him to pay Rs. 20,000/- per month on the ground that she received a sum of Rs. 40 Lakhs as a final settlement of alimony from her first husband. She earns considerable interest per month from the said money. Secondly, she is academically qualified, having M.Sc. degree in Botany. She is also a diploma holder in Japanese language and is capable of earning money not only for her livelihood but a decent sum to run a luxurious life. h

a 5. The petitioner, on the other hand, has his obligation for his old and ailing parents aged about 80 years and 75 years respectively. It is further contended by the petitioner that the respondent has suppressed her previous marriage and settled her marriage with the petitioner. Their marriage was solemnized on 16th of February, 2020 at Arya Samaj Mandir, Ghaziabad, according to Hindu Vedic Rites and Ritual. At the time of marriage, the opposite party had sworn an affidavit declaring herself unmarried. On the basis of such false affidavit, the opposite party married with petitioner by fraud in obtaining free consent to marriage.

c 6. It is also alleged by the petitioner that within 3 months of marriage, the opposite party refused to cohabit with the petitioner. She also refused to take care of his parents, abused them with filthy language, threatened them to implicate in criminal case by lodging false complaint and also assaulted him on 10th of October, 2020.

d 7. The petitioner medically treated her and came to know that the opposite party was suffering from Obsessive Compulsive Disorder (OCD) leading to suicidal tendencies.

e 8. Thus, the petitioner has challenged legality, propriety and correctness of the order of maintenance dated 24th of May, 2024, in Maintenance Case No. 61 of 2021, passed by the learned Principal Judge, Family Court, Saran at Chapra.

f 9. The opposite party has filed a counter affidavit against the instant petition under Section 19 (4) of the Family Courts Act denying the allegations made by the petitioner against her.

g 10. It is the specific case of the opposite party that on being asked by the petitioner, she delivered entire sum of Rs. 40 Lakhs to him which she got as final settlement of alimony from her previous husband. The opposite party also alleged that the petitioner demanded dowry of Rs. 15 Lakhs. After marriage, she was subjected to physical and mental torture which resulted in her abortion and then she left her matrimonial home on 10th of October, 2020. The respondent again went to her matrimonial home sometimes in January, 2021 with the hope of leading a peaceful and happy conjugal life but she was harassed and maltreated. She filed an application under Section 125 of the Cr.P.C. on 9th of March, 2021. She also lodged a complaint against the petitioner and other matrimonial relations before the jurisdictional police station on 18th of February, 2022 under Sections 498A, 315 and 34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, in which case, the petitioner was

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arrested. While he was in judicial custody in connection with above-mentioned case, the parents of the petitioner published a paper advertisement for his third marriage on 22nd of May, 2022. a

11. On conclusion of trial of the proceeding under Section 125 of the Cr.P.C., the learned Principal Judge, Family Court, Saran at Chapra granted maintenance allowance at the rate of Rs. 20,000/- per month in favour of the opposite party specially on the ground that the petitioner filed his income tax return where he disclosed his annual net income at Rs. 15,52,125/- for the financial year 2023-24. However, by filing an affidavit, it is averred by the petitioner that he is now unemployed. b

12. It is argued by the learned Advocate for the petitioner that Section 125 of the Cr.P.C. states that the petitioner is not entitled to get any maintenance if she refused to live with her husband without sufficient reason. It is contended by the learned Advocate on behalf of the petitioner that the opposite party failed to produce any evidence as to why she had refused to stay with the petitioner. It is a fact that the opposite party lodged a complaint under Sections 498A, 315 and 34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act after lapse of one year from the date of filing of the application for maintenance. The application for maintenance was filed on March, 2021 while the complaint of cruelty and illegal demand of dowry was made on 14th of February, 2022. c

13. Thus, It is obvious that on the date of filing of the application under Section 125 of the Cr.P.C., there was no reason for the opposite party / wife to claim maintenance as her husband did not neglect or refuse her to maintain. d

14. It is contended by the learned Advocate on behalf of the petitioner that the petitioner is a victim of fraud because the opposite party at the time of her marriage declared by swearing affidavit that she was unmarried but subsequently the petitioner came to know that she was previously married. e

15. This piece of argument was seriously refuted by the learned counsel for the opposite party. It is submitted by him that marriage of the parties was settled on the basis of an advertisement published by the opposite party in a matrimonial site. In the said matrimonial site, the opposite party clearly disclosed that she was a divorcee. Therefore, her status before the marriage of the petitioner was publicly published in matrimonial site. f

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a 16. Thus, the argument advanced on behalf of the petitioner about his ignorance cannot be accepted under the facts and circumstances of the case.

b 17. The petitioner married to opposite party with the full knowledge that she had a previous marriage and her marriage was dissolved by a decree of divorce. It is also contended by the learned Advocate for the opposite party that when a marriage is dissolved by a decree of divorce, status of the dissolved marriage becomes non-est.

c 18. In view of such circumstances, the opposite party did not commit any illegality, far from commission of fraud by declaring herself unmarried in the affidavit filed by her at the time of marriage.

d 19. The learned Advocate for the petitioner next submits that a wife who is unable to maintain herself, is entitled to get maintenance from her husband. However, lady with a post-graduate degree in Botany and diploma in Japanese language is able to earn sufficient money for her livelihood. The learned Advocate on behalf of the petitioner has raised question that why should an educated lady depend upon the dole of her husband. He also submits that the purpose and object of Section 125 of the Cr.P.C. does not state that a married woman is entitled to maintenance even that she is capable of earning. The word "unable to maintain herself" postulates incapacity and lack of any suitable provision to maintain oneself. Even if a lady is capable of earning considering her academic qualification, etc., she cannot be held as a wife unable to maintain herself.

f 20. On this score also, the opposite party is not entitled to get any maintenance. As example, it is submitted by the learned Advocate of the petitioner that the opposite party being permanent resident of Chapra can even work with dignity as a Tours and Travel Guide of thousands of Japanese tourists who regularly come to Gaya and Bodh Gaya " Buddha Circuit Tour" in the State of Bihar and can earn a decent income.

g 21. It is contended by the learned Advocate for the petitioner that the opposite party does not have any inclination to maintain her livelihood by independent earning. On the other hand, her conduct reveals that she would marry one person and either get huge amount of alimony or maintenance allowance etc., and live her life spending the said money.

h 22. Learned Advocate on behalf of the petitioner next submits that the Trial Court did not follow the compulsory guidelines of the Hon'ble Supreme Court in the case of *Rajnish v. Neha* reported in

2021 2 SCC 324 and passed the impugned order in a mechanical way. Applying the guidelines of the Rajnish (supra), maintenance claims require disclosure affidavits of assets and liabilities, balanced assessment of needs and quantum based on factors like parties' status, reasonable need and income. While dealing with the above aspect, the Hon'ble Supreme Court observed in Paragraph Nos. 109 and 130 of Rajnish (supra) as hereunder:

"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.

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."

23. This underscores the need for transparency and reasoned orders on retrospectivity, which the impugned order lacks.

24. On entitlement, Deb Narayan Halder v. Anushree Halder reported in 2003 II SCC 303 holds that a wife deserting without sufficient reason or failing to prove cruelty is not entitled to maintenance. The respondent's allegations of torture and dowry demand lack specificity, no dates, medical evidence for abortion, or contemporaneous records like messages/emails. The 16-month delay in filing the 498A complaint (from alleged January 2021 harassment to February 2022) remains unexplained, casting doubt on credibility. The matrimonial advertisement during the petitioner's custody further suggests her unwillingness to cohabit, amounting to desertion without just cause under Section 125(4). In Deb Narayan Halder (supra), the Apex Court held:

"20. In cases where there is a dispute between husband and wife it is very difficult to unravel the true reason for the dispute. After separation when the relationship turns sour, all sorts of allegations and counter-allegations

a are made against each other. Evidence of contemporaneous nature
 therefore plays an important role in such cases as it may reveal the
 thinking and attitude of the parties towards each other at the relevant
 time. Such evidence is usually found in the form of letters written by the
 parties to each other or to their friends and relatives or recorded in any
 other document of contemporaneous nature. If really the respondent was
 b subjected to cruelty and harassment in the manner alleged by her, we
 have no doubt she would have written about such treatment to her friends
 and relatives with whom she may have corresponded."

c 25. Moreover, in *Jasbir Kaur Sehgal v. District Judge, Dehradun* reported in 1997 7 SCC 7, the Hon'ble Supreme Court
 emphasized considering the wife's income or earning capacity in
 determining quantum. The respondent, though qualified
 (M.Sc., language diploma, design courses), claims no income, but
 suppressed her prior divorce and Rs. 40,00,000/- alimony in her
 d marriage affidavit. A material concealment potentially vitiating her
 claim for equitable relief. The trial court's disbelief in her cash
 handover implies she may retain these funds, enabling self-
 maintenance. Coupled with the petitioner's current unemployment
 (attributable to her complaint), the awarded quantum appears
 disproportionate. The Hon'ble Supreme Court in *Jasbir Kaur*
 e observed:

f "8. No set formula can be laid for fixing the amount of maintenance. It
 has, in the very nature of things, to depend on the facts and
 circumstances of each case. Some scope for leverage can, however, be
 always there. The court has to consider the status of the parties, their
 respective needs, the capacity of the husband to pay having regard to his
 reasonable expenses for his own maintenance and of those he is obliged
 under the law and statutory but involuntary payments or deductions.
 g The amount of maintenance fixed for the wife should be such as she can
 live in reasonable comfort considering her status and the mode of life she
 was used to when she lived with her husband and also that she does not
 feel handicapped in the prosecution of her case."

h 26. This highlights the need to factor in the wife's potential
 earnings and assets, which were overlooked here.

27. Additionally, on the aspect of suppression of material
 facts, the principle enunciated in *S.P. Chengalvaraya Naidu v. Jagannath* reported in (1994) 1 SCC 1 is apposite, though in a civil
 context, as it underscores equity:

"Fraud avoids all judicial acts, ecclesiastical or temporal" ...

"6. ...A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party." **a**

28. While Section 125 proceedings are summary, courts consider conduct and financial disclosures critically. If a wife conceals her actual income or alimony, it may disentitle her as the court relies on bona fide disclosures to decide maintenance amount. Reference in this regard may be made to a Punjab & Haryana High Court case of Jaspreet Singh v. Gurleen Kaur, reported in 2020 SCC OnLine P&H 55: **b**

"21. The best practices should always be followed particularly if the same are for furtherance of efficient and effective justice dispensation. Furnishing of such affidavits would check the practice of playing "hide and seek" game in such cases where an attempt is made by a party to conceal the income and not come out with resources forcing the other party to make tiring efforts to collect information which would otherwise be readily available with such party. Sometimes the information is such the existence of which, a party can not even deny. As discussed above, the Courts handling such matters, particularly Family Courts, are competent to devise their own procedure for eliciting requisite information, though of course within the broad framework of law." **c**

29. On the basis of the discussion made hereinabove, this Court is of the view that before passing a final order of maintenance, the learned Principal Judge, Family Court, Saran at Chapra is under statutory obligation to direct the parties to file affidavits of assets and liabilities. Only on due consideration of such affidavits of assets and liabilities, it will be possible for the Court to consider the status of the parties, their assets, respective needs, capability of earning and on the basis of such documents, Court can come to a conclusive decision with regard to amount of maintenance. **d**

30. In view of such circumstances, this Court does not have any other alternative but to hold that the impugned order suffers from impropriety and illegality in over looking suppression of material facts, income of the parties, their source of income, their assets and liabilities and other similar factors, which are required to be considered for determination of maintenance allowance. **e**

31. Therefore, this Court is not in a position to affirm the impugned order and, accordingly, the impugned order is quashed and set aside. **f**

32. The revisional application is allowed.

- a 33. Let a copy of this order be sent to the learned Principal Judge, Family Court, Saran at Chapra for information with a direction that he shall direct both the parties to file their affidavits of assets and liabilities as per the guidelines laid down by the Hon'ble Supreme Court in Rajnish (supra) within four weeks from the date of communication of the order.
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- c 34. After receiving the affidavits of assets and liabilities from both the parties, the learned Trial Judge shall dispose of the proceeding under Section 125 of the Cr.P.C. by passing a fresh judgement within four weeks thereafter.

Result:- Revisional application allowed. Impugned order quashed and set aside. Matter remanded.

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