



## IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Judgment reserved on: 19.12.2025**Judgment pronounced on: 16.03.2026*

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**CRL.REV.P. 452/2023 & CRL.M.A. 10546/2023, CRL.M.A. 10548/2023, CRL.M.A. 23663/2025**

.....Petitioner

versus

..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Mr. Gurpreet Singh and Ms. Vaishnavi Vashishta, Advocates.

For the Respondents : Mr. Deepak Garg, Mr. Mohan Singh, Mr. Sachin Kumar, Ms. Vishakha Deswal and Mr. Robin Singh, Advocates.

**CORAM****HON'BLE MR JUSTICE AMIT MAHAJAN****JUDGMENT**

1. The present petition is filed challenging the judgment dated 22.12.2022 (hereafter '**impugned judgment**'), passed by the learned Family Court, East District, Karkardooma Courts, Delhi in MT Case 358/18.

2. By the impugned judgment, the learned Family Court awarded maintenance of ₹8,300/- per month to each of the respondents (wife and daughter of the petitioner) and the son of the petitioner till 02.03.2021 (that is, the date on which the son attained the age of



majority), and thereafter, maintenance of ₹10,000/- per month to each of the respondents. Further, the learned Family Court directed that the maintenance amount will be increased by 10% after every two years from the date of the order. Litigation expenses of ₹11,000/- were also awarded.

3. The learned counsel for the petitioner submitted that the Family Court has failed to appreciate the material on record in its true spirit. He submitted that the petitioner had not neglected the respondents as is evident from the admission made by Respondent No.1 on 04.07.2019 during her cross-examination in relation to her being in possession of the house [REDACTED] [REDACTED] which was bought by the petitioner.

4. He submitted that the learned Family Court did not appreciate that Respondent No.1 has admitted that she was residing at her paternal house, which shows that the shared household had been let out by her for financial gains. He submitted that Respondent No.1 has concealed her income from rent.

5. He submitted that Respondent No.1 has categorically admitted that she does not wish to reside with the petitioner, and she cannot be said to be entitled to maintenance in such circumstances.

6. He submitted that the income of the petitioner has been assessed on the higher side without appreciating that the petitioner is a pensioner and he is no longer employed with Central Reserve Police



and he is a mere agriculturalist. He submitted that the petitioner has a very small portion of land and his agricultural income is very meagre on account of the yield of his land being low. He submitted that as per the MSP prices for the concerned area in 2019-2020, the total income from the land will only be Rs. 62,634/- [as per Annexure 7 (colly)], which is further reduced on account of operational costs.

7. The learned counsel for the respondents vehemently opposed the submissions tendered on behalf of the petitioner. He submitted that the petitioner was deliberately trying to mislead the Court with old MSP rates.

8. He further submitted that Respondent No.2 and her brother are both pursuing their higher education, and the respondents have no source of income as Respondent No.1 is only a house wife. He submitted that the petitioner has not made regular payment of the maintenance either.

## ANALYSIS

9. It is well settled that the object of granting maintenance is to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support. The Hon'ble Apex Court in **Chaturbhuji v. Sita Bai : (2008) 2 SCC 316**, has observed as under:

*“6. The object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to support*



themselves and who have a moral claim to support. The phrase “unable to maintain herself” in the instant case would mean that means available to the deserted wife while she was living with her husband and would not take within itself the efforts made by the wife after desertion to survive somehow. 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 *Captain Ramesh Chander Kaushal v. Veena Kaushal* [(1978) 4 SCC 70 : 1978 SCC (Cri) 508: AIR 1978 SC 1807] 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...**

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*In an illustrative case where the wife was surviving by begging, it would not amount to her ability to maintain herself. It can also be not said that the wife has been capable of earning but she was not making an effort to earn. **Whether the deserted wife was unable to maintain herself, has to be decided on the basis of the material placed on record. Where the personal income of the wife is insufficient she can claim maintenance under Section 125 CrPC. The test is whether the wife is in a position to maintain herself in the way she was used to in the place of her husband. In *Bhagwan Dutt v. Kamla Devi* [(1975) 2 SCC 386 : 1975 SCC (Cri) 563 : AIR 1975 SC 83] it was observed that the wife should be in a position to maintain a standard of living which is neither luxurious nor penurious but what is consistent with status of a family. The expression “unable to maintain herself” does not mean that the wife must be absolutely destitute before she can apply for maintenance under Section 125 CrPC.”***

(emphasis supplied)

10. However, Section 125 of the CrPC elucidates conditions under which a wife may be deemed ineligible for maintenance. These conditions include instances where the wife is engaged in adulterous activities, where she, without any justifiable cause, refuse to cohabit



with her husband, or where both parties have agreed to live apart through mutual consent. These provisions delineate clear legal parameters that govern the entitlement or disentitlement of maintenance to ensure that the support is granted only under circumstances that warrant such financial assistance.

11. Parties are undisputedly living separately since the year 2013 and Respondent No.1 is taking care of their children.

12. At the outset, it is imperative to note that the petitioner has not challenged the maintenance awarded to his son, who has since attained the age of majority.

13. It is the case of the petitioner that Respondent No.1 is ineligible for maintenance as she willingly decided to not reside with the petitioner, even though, he did not neglect her. As rightly appreciated by the learned Family Court, the parties admittedly started living separately in the year 2013. Placing reliance on the evidence of Respondent No.1, the learned Family Court has rightly noted that she has remained consistent in her allegations of cruelty and harassment from the petitioner and his family members. Merely because Respondent No.1 remained in possession of the matrimonial house, the same does not signify that the petitioner did not neglect to maintain the respondents. Even if the contention of the petitioner is taken as correct, the case of the respondents is not helmed on Respondent No.1 leaving the company of the petitioner due to neglect, so as to disentitle her from grant of maintenance. Rather, Respondent



No.1 has made categorical allegations of cruelty, which is sufficient to satisfy the threshold of balance of probabilities.

14. The petitioner is also aggrieved by the assessment of his income. It is argued that the petitioner's income has been unreasonably assessed to be on the higher side, without appreciating that he has taken voluntary retirement and is now a small agriculturist.

15. A bare perusal of the impugned order reflects that the learned Family Court has readily accepted the contention of the petitioner that he has taken voluntary retirement. The learned Trial Court fixed the petitioner's pension to be around ₹25,000/- after noting that his monthly net income in the month of December, 2019 was around ₹39,200/- and even the petitioner had maintained that his pension would be fixed around ₹21,000/-. Rejecting the contention of the respondents that the petitioner took retirement to deprive them of their rightful maintenance, the learned Family Court assessed the petitioner's yearly agricultural income to be around Rs. 3 lakhs per year on the basis of guess work. The income of the petitioner was thus assessed as Rs. 50,000/ month.

16. Although the petitioner is stated to have taken voluntary retirement from CRPF only in July, 2022, his income has been peculiarly assessed on the basis of the pension as well as purported agricultural yield for the period starting from filing of the respondents' application under Section 125 of the CrPC in January, 2016. In the opinion of this Court, as the petitioner remained in employment till



July, 2022, the said aspect cannot be ignored while assessing his income for the concerned period.

17. As far as the petitioner's income prior to voluntary retirement is concerned, no original documents *qua* the petitioner's income were ever exhibited before the learned Trial Court, however, a perusal of the order of interim maintenance and marked exhibits adduced by the petitioner (containing the petitioner's salary slips as well as income tax returns) reflect that the petitioner's net pay in August, 2016 was ₹33,252/- with gross pay of ₹35,842/-, and the petitioner's gross pay in January, 2018 was ₹41,900/-. It was noted by the learned Trial Court that the petitioner's net salary of ₹26,864/- in January, 2018 was not commensurate with his total emoluments and payable tax of ₹20,450/- in assessment year 2017-18. No documents were adduced by the petitioner to evidence as to what was his last drawn income. From the said documents, it is safe to assume that the petitioner's income would have gone above ₹40,000/- approximately by the year 2019 and he would have retired with a net salary of not less than ₹50,000/-.

18. Pursuant to retirement, it is claimed that the petitioner's income plummeted due to him having a very small portion of agricultural land. The petitioner has failed to explain the circumstances which led him to taking voluntary retirement in July, 2022 when he was around 47 years old, despite having years of service left. Although the learned Trial Court has noted that no government employee will ordinarily



take retirement with the sole intention of depriving his wife and children of the benefit of maintenance, however, as per the deposition of the petitioner, he was deriving *no* income from the agricultural land despite efforts to cultivate the same. Just as employed wives allegedly leave their jobs to gain an upper hand in maintenance disputes, quitting of jobs is similarly a common strategy adopted by well-qualified husbands to avoid paying proper amount of maintenance as well. It appears to be implausible that the petitioner would have taken retirement from his stable well-paying job without securing any other mode of income. As it is a normal tendency of the parties to not disclose their true income in matrimonial disputes, the Courts are permitted to make some guess work and arrive at a figure that a party may reasonably be earning (Ref. ***Bharat Hegde v. Saroj Hegde* : 2007 SCC OnLine Del 622**).

19. Any assertion of the petitioner having no source of income apart from his pension pursuant to retirement cannot be accepted. The petitioner must have also received some retiral benefits on his retirement. Moreover, he is a B.Com graduate. Considering that it is common for government employees to take up employment in private sector after voluntary retirement and that the petitioner is a well-bodied man capable of earning, he cannot shirk his sacrosanct duty to financially support his wife and children by claiming that he has no income after retirement apart from his pension. The petitioner is thus *obliged* to earn and maintain his family, and the purported lower MSP prices for his land would thus not help his case. The Hon'ble Apex





Court, in the case of **Anju Garg and Anr. v. Deepak Kumar Garg:**  
**2022 SCC Online SC 1314**, observed as under:

*“10... 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...***

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*13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no source of income as his party business has now been closed, the Court is neither impressed by nor is ready to accept such submissions. **The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child...***”

(emphasis supplied)

20. In such circumstances, considering that the petitioner has a pension of around ₹25,000/- and that he is a qualified and able-bodied man, his assessed income of around ₹50,000/- does not appear to be excessive.

21. As also rightly appreciated by the learned Trial Court, no material was adduced by the petitioner to lend credence to the assertion that he was paying some amount towards loans taken by him.

22. As far as the income of Respondent No.1 is concerned, this Court finds no merit in the assertions of the petitioner in regard to the respondents being able to maintain themselves from rent received by letting out their residential property at Biharipur. No material is



adduced to show that the respondents were receiving a monthly rental income of ₹30,000/- so as to disentitle them from maintenance. During her evidence, Respondent No.1 has only admitted to receiving rent of ₹2,500/- per month by renting out the ground floor, and her income affidavit reflects admission of receipt of rent of ₹3,000/-. Although the petitioner has stressed that the respondents resided at the paternal house of Respondent No.1 and the entire property was let out by her for financial gains, there is no material to credit the said assertion. Further, admittedly, the said property has since been sold in the year 2022 and a 2BHK flat in Faridabad has been bought, which is being used by the respondents as residence.

23. In the opinion of this Court, even if the said rental income as well as the aspect of the petitioner's net income from his job being below ₹50,000/- during the earlier years is accounted for, the awarded maintenance still warrants no interference. If the petitioner's income was to be assessed to be a little lower, the same would still not result in reduction of awarded maintenance amount on account of the higher share awarded in favour of his mother.

24. The impugned order reflects that the learned Trial Court has also erroneously granted one share to the petitioner's mother in terms of ***Annurita Vohra v. Sandeep Vohra : 2004 (74) DRJ 99***, even though she is admittedly only partly dependent on the petitioner. The petitioner's mother is getting family pension as his father was a government servant and she also has some agricultural land in her



name. The petitioner also has a brother, who shares responsibility for maintaining their mother. No documents were adduced by the petitioner to show the expenses incurred by him for maintenance of his mother either, however, he has stated in his deposition that he has spent about ₹10,000/- to ₹12,000/- per year on his mother's medical expenses. Considering the aforesaid facts, in the opinion of this Court, an entire share is not to be divided in favour of the petitioner's mother and only an yearly amount of around ₹15,000/- ought to have been considered for that purpose.

25. Thus, on a holistic appraisal of the facts, considering that the petitioner's income would have gone above ₹40,000/- approximately by the year 2019 and that the learned Trial Court has only awarded an increase in maintenance amount by 10% *after* every two years from passing of the impugned order, this Court is of the opinion that the awarded maintenance is reasonable.

26. In view of the aforesaid discussion, this Court finds that the impugned order does not warrant any interference.

27. The present petition is dismissed in the aforesaid terms. Pending applications also stand disposed of.

**AMIT MAHAJAN, J**

**MARCH 16, 2026**

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