



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-1-

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

1. **CRR(F)-903-2022(O&M)**  
**Reserved on : 01.08.2025**  
**Pronounced on: 08.10.2025**

**SHIVANI GARG AND ANR** ..... Petitioners

VERSUS

**RAJIV GARG** ..... Respondent

2. **CRR(F)-717-2022(O&M)**

**RAJIV GARG** ..... Petitioner

VERSUS

**SHIVANI GARG AND ANR** ..... Respondents

**CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**

Present: Mr. Kanwaljit Singh, Senior Advocate with  
Mr. Veer Iman Singh Gill, Advocate and  
Ms. Anchal Kathuria, Advocate  
for the petitioners in CRR(F)-903-2022 and  
for the respondents in CRR(F)-717-2022.

Mr. Siddharth Gupta, Advocate  
for the petitioner in CRR(F)-717-2022 and  
for the respondent in CRR(F)-903-2022.

\*\*\*\*

**KIRTI SINGH, J. (ORAL)**

This common judgment shall decide the aforementioned revision petitions, as they stem from the same impugned order dated 14.07.2022. For the sake of brevity the facts are being extracted from CRR(F)-903-2022.



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-2-

2. The present petition has been preferred seeking enhancement of the quantum of maintenance granted to the petitioners vide order dated 14.07.2022 passed by learned Principal Judge, Family Court, Bathinda, under Section 125 of the Cr.P.C., whereby final maintenance of Rs.35,000/- per month was awarded in favour of the petitioner No.1-wife and Rs.15,000/- per month was awarded in favour of petitioner No.2-son. Modification of the order qua the date of grant of maintenance at this rate is also sought.

3. Succinct factual narrative relevant for the disposal of the petition is that the marriage between petitioner No.1-wife and respondent-husband was solemnized on 21.06.2003 as per Hindu rites and ceremonies and out of said wedlock, one male child i.e. petitioner No.2 was born on 07.04.2004, who has been residing with petitioner No.1. A matrimonial dispute ensued between the couple, whereafter the petitioners filed a petition under Section 125 Cr.P.C. for seeking maintenance. The respondent filed a reply and contested the claim made by the petitioners. The learned Family Court vide order dated 14.07.2022 granted maintenance of Rs.35,000/- per month in favour of petitioner No.1 and Rs.15,000/- per month in favour of petitioner No.2. Aggrieved by the same, the petitioners have approached this Court by filing the present petition.

4. Learned counsel for the petitioners submits that the respondent had subjected petitioner No.1 to constant harassment, physical assault, and cruelty throughout their marriage. In fact she was subjected to beatings on 02.11.2008, compelling her to leave the matrimonial home along with her minor son and taking shelter at her parental house in Bathinda. On 16.11.2008, the respondent even trespassed into her parental home, assaulted and threatened her, leading to registration of FIR No.897 dated 16.11.2008 under Sections 451, 323 and 506 IPC, in which he was convicted by the



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-3-

learned JMIC, Bathinda. Petitioner No.1, having no independent source of income, was constrained to file an application under Section 125 Cr.P.C. on 10.06.2009, seeking maintenance for herself and her (then) minor son. During the course of hearing of the said application, the petitioners duly proved, by way of evidence, the fact that the respondent is gainfully employed at a senior position in Maruti Udyog. It is submitted that the salary slips (Ex. CW3/A) and the own affidavits of the respondent disclosed his income as being in the range of Rs.3,00,000/- to Rs.5,00,000/- per month, despite attempts by the respondent to misrepresent his true earnings by projecting inflated deductions and understated figures. In fact, the respondent during his cross-examination revealed his annual income as being Rs.44,00,000/-. All the points, also raised herein, by the respondent to contest the claim of the petitioners were duly addressed and discredited by the learned Family Court, holding the petitioners entitled to receive maintenance from the respondent. However, only a sum of Rs.35,000/- per month to petitioner No.1 and Rs.15,000/- per month to petitioner No.2 was awarded, that too from 02.01.2019 instead of from the date of application i.e., 10.06.2009. Such finding is contrary to settled law laid down in *Rajnish v. Neha* (2021) 2 SCC 324, that maintenance is to be awarded from the date of filing of the application seeking the same. It is further contended that petitioner No.2, though now major, is still pursuing higher studies in B.Tech and intends to continue his education up to M.Tech. As has been opined in various judicial pronouncements, a father is morally bound to maintain a child till completion of education. In the present case, the actual educational and hostel expenses of petitioner No.2 exceed Rs.80,000/- per month. As such, the circumstances warrant that the sum of maintenance awarded to petitioner No.2, be at least enhanced. It is also contended that petitioner No.1 does not have any independent source of income, and any claim made



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-4-

otherwise by the respondent is false and unsupported by any credible evidence. Moreover, it is a settled proposition of law that the fact of a wife being qualified does not preclude her from receiving maintenance from her spouse, quantum of which must be fixed in view of the financial position of either side. In support of his submissions, learned counsel for the petitioners has placed reliance on the judgments passed in ***Rajwinder Kaur vs. Harvinder Singh, 2014(14) RCR(Criminal)729; Divesh Sapra vs. Latika Sapra, 2025(1)RCR(Criminal)59; Sudhir Kumar Rehani vs. Indu Bala, 2011(2) RCR(Criminal)389.***

5. *Per contra*, learned counsel for the respondent whilst refuting the aforesaid contentions submits that petitioner No.1-wife had left the society of the respondent without any reasonable cause and thereafter filed an application for seeking maintenance from the respondent, despite being extremely well qualified herself. It is submitted that initially, the respondent made sincere efforts to persuade petitioner No.1 to return to the matrimonial home and to resolve the disputes. However, as is crystal clear from the conversation recorded between the parties, duly proved on record as Ex.R8/1, petitioner No.1 had no intention of living with the respondent. In fact, in the said conversation, she intimidated the respondent and even admitted to physically assaulting him. A bare perusal of this conversation reveals the *mala fide* intentions harboured by petitioner No.1. Reliance is placed on the judgment of the Hon'ble Supreme Court in ***Vibhor Garg v. Neha (2025 SCC Online SC 1421)***, wherein it has been held that spousal communication is admissible in matrimonial proceedings even if recorded without consent, by virtue of the exception carved out under Section 122 of the Evidence Act. It is further submitted that under Section 125(4) CrPC, a



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-5-

wife is disentitled to maintenance if she refuses to live with her husband without sufficient reason. With regard to petitioner No.2, it is submitted that he has attained the age of majority, being 21 years old, and being fully capable of maintaining himself, is not legally entitled to claim maintenance from the respondent. It is the further contention that petitioner No.1 is herself gainfully employed and has independent means to sustain herself. Though she denied having filed them, her ITRs for the assessment years 2011–2014, proved on record as Ex.R6/1 to Ex.R6/3, clearly establish her gross annual income as being Rs.2,90,000/-. She is also highly qualified, holding degrees of M.A., B.Ed., and P.G.D.C.A., and thus fully capable of earning her livelihood. On the other hand, the financial capacity of the respondent is very limited. His monthly obligations, liabilities, and debts far exceed his take-home income. It is submitted that the law is well settled that maintenance has to be assessed keeping in view the status of the parties at the time of separation, and not on the basis of the subsequent financial progress of the husband. The Hon'ble Supreme Court in ***Rinku Baheti v. Sandesh Sharda*** (2024 (4) Law Herald (SC) 3405) has categorically held that maintenance is not a device for equalization of wealth and that the husband cannot be burdened to maintain his wife as per his enhanced financial status after separation. Since the parties have been living separately since November 2008, when the respondent was earning only about Rs.36,177/- per month, the maintenance awarded by the Family Court at Rs.50,000/- per month is clearly disproportionate and unjustified. The impugned order, fixing maintenance at Rs.35,000/- per month in favour of petitioner No.1 and Rs.15,000/- per month in favour of petitioner No.2, is



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-6-

thus perverse, based on conjectures, and hence is liable to be set aside, or in the alternative, substantially modified.

6. I have given thoughtful consideration to the submissions made by learned counsel for the parties and meticulously perused the record.

7. Vide order dated 14.07.2025, passed by this Court, the parties were directed to appear before the Mediation and Conciliation Centre of this Court, to explore the possibility of an amicable resolution to the dispute. However, as per the report submitted by the Mediation and Conciliation Centre, the matter has been returned back as unsettled.

8. Before proceeding to decide the question of grant of maintenance, it would be apposite to reiterate that provision of Section 125 Cr.PC is a manifestation of the legislative intent to prevent vagrancy and destitution of wives, children and parents who are unable to maintain themselves. This spirit of social justice also finds footing in the enabling provisions of Article 15(3), reinforced by Article 39 of the Constitution of India. The adequacy of the maintenance so fixed must be determined by the yardstick of the dependent spouse and children being able to lead a life of reasonable comfort.

9. While adjudicating the appeals pertaining to an order of maintenance, the Hon'ble Supreme Court expressed in ***Shamima Farooqui Vs. Shahid Khan* (2015) SCC 708** that “18. From the aforesaid enunciation of law it is limpid that the obligation of the husband is on a higher pedestal when the question of maintenance of wife and children arises. When the woman leaves the matrimonial home, the situation is quite different. She is deprived of many a comfort. Sometimes the faith in life reduces. Sometimes,



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-7-

*she feels she has lost the tenderest friend. There may be a feeling that her fearless courage has brought her the misfortune. At this stage, the only comfort that the law can impose is that the husband is bound to give monetary comfort. That is the only soothing legal balm, for she cannot be allowed to resign to destiny. Therefore, the lawful imposition for grant of maintenance allowance.”*

10. Further, the Hon'ble Supreme Court in “***Shailja v. Khobbana***”, (2018) 12 SCC 199, while distinguishing between "capable earning" and "actual earning", held that they are different requirements. Merely because the wife is capable of earning was held not to be a sufficient reason to reduce the maintenance awarded by the Family Court. Following this dictum of law, the Delhi High Court in “***Sh. Arun Vats vs. Ms. Pallavi Sharma and anr.***” CRL.REV.P. 751/2018, dismissed the revision petition challenging the order granting interim maintenance of Rs. 33,005/- to the wife, a professional and duly enrolled advocate though claimed to be not working, and minor child. Similar had been the decision of this Court in ***Chanchal Mehta vs. Supriya Mehta, Crl. Revision No. 365 of 2016.***

11. The object and purpose behind granting maintenance is to ensure that the dependent spouse and children are not reduced to destitution or vagrancy on account of failure of marriage. At the same time, a just and careful balance must be struck to ensure that this provision does not degenerate into a weapon to punish the other spouse. The Courts are required to conduct the maintenance proceedings while being alive to the legislative intent behind the provision under Section 125 Cr.P.C in its true spirit, which is to provide speedy assistance and social justice to women,



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-8-

children and infirm parents. The provisions of Section 125 Cr.P.C. were enacted as a measure to further social justice and protect dependent women, children and parents, which also fall within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India.

12. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in ***Rajesh v. Neha and another (2021) 2 SCC 324***, laid down the criteria for determining quantum of maintenance and issued the following directions:

***VI Final Directions***

130. *In view of the foregoing discussion as contained in Part B -1 to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:*

***(a) Issue of overlapping jurisdiction***

131. *To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:*

*(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;*

*(ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;*

*(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding*

***(b) Payment of Interim Maintenance***

132. *The Affidavit of Disclosure of Assets and Liabilities annexed*



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-9-

*as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.*

**(c) Criteria for determining the quantum of maintenance**

*133. 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.*

*134. The aforesaid factors are however not exhaustive, and the concerned Court 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.*

**(d) Date from which maintenance is to be awarded**

*135. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.*

**(e) Enforcement/Execution of orders of maintenance**

*136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI."*

13. Reverting to the case in hand, a perusal of the impugned order passed by the learned Family Court makes it evident that the court has duly considered the material placed before it at the time of deciding the application for maintenance. The respondent has argued that petitioner No.1 is disentitled to maintenance on account of her alleged voluntary desertion, concealment with respect to her earnings and financial resources, and on the ground of her being well educated. The record, however, reveals that



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-10-

petitioner No.1 was constrained to leave the matrimonial home in November 2008 owing to cruelty and assault, culminating in registration of FIR No.897 dated 16.11.2008, wherein the respondent was convicted. The contention of the respondent counsel that the call recording between the parties was not taken into consideration, the contextual background of the entire conversation between the parties, especially given the circumstances of matrimonial disturbances between the two leading to higher tempers, must be seen, which lacks in the said recording. Such circumstances constitute “sufficient reason” within the meaning of Section 125(4) Cr.P.C. and disentitle the respondent from raising a plea of desertion. With respect to the purported working status of petitioner No.1 and her consequential earnings, the learned Family Court had, after thorough perusal of the material on record, concluded that no cogent proof had been adduced by the respondent-husband to establish that his wife had been gainfully employed or deriving a regular income sufficient for her sustenance. Furthermore, the mere reason that a woman is well qualified does not ipso facto disentitle her from seeking maintenance. It was the further noting of the learned Family Court that the respondent-husband had, in his duly sworn affidavit dated 09.11.2021, disclosed his monthly income as being Rs.3,21,079/- while in his affidavit dated 24.02.2022, stated his carry home salary as being Rs.1,35,000/- per month. It was under such circumstances that the learned Family Court fits the quantum of maintenance.

14. With respect to the contention of learned counsel for respondent that only the financial status of the parties at the time of filing of maintenance application must be taken into consideration, the same cannot



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-11-

be treated as a tenable argument. What must be seen is that the rival claimants bring on record their actual respective earning capacities in order for the Court to arrive at quantum of maintenance, which is just and fair in terms of principle of equistatus, to provide succour to the dependent spouse and also to avoid occurrence of the two extremes of the maintenance being either paltry or extravagant, ensuring that neither of the two is reduced to a life of penury.

15. Insofar as the question of maintenance to petitioner No.2 beyond the age of majority is concerned, though the law is clear in that respect, however, a gainful reference can be made to the judgment passed by the Delhi High Court in ***Urvashi Aggarwal v. Inderpaul Aggarwal, 2021(4) RCR Criminal 504***, wherein, while referring to a plethora of judgments passed by the Hon'ble Apex Court, it was held that the arrangement so made to facilitate the education of a major son needed no interference. The relevant paras thereof read thus:

*“9. It is further pertinent to note that it is true that in majority of households, women are unable to work due to sociocultural as well as structural impediments, and, thus, cannot financially support themselves. However, in households wherein the women are working and are earning sufficiently to maintain themselves, it does not automatically mean that the husband is absolved of his responsibility to provide sustenance for his children. A father has an equal duty to provide for his children and there cannot be a situation wherein it is only the mother who has to bear the burden of expenses for raising and educating the children.*

*10. This Court cannot shut its eyes to the reality that simply attaining majority does not translate into the understanding that the major son is earning sufficiently. At the age of 18, it can be safely assumed that the son is either graduating from 12th standard or is in his first year*



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-12-

*of college. More often than not, it does not place him in a position wherein he can earn to sustain or maintain himself. It further places the entire burden on the mother to bear the expenses of educating the children without any contribution from the father, and this Court cannot countenance such a situation.*

*11. The Supreme Court and other High Courts have, in a slew of judgements, in view of the facts and circumstances of the case placed before them, upheld the maintenance allowance granted to a son post attaining majority on the ground that the father has a duty to finance basic education of the child and that the child cannot be deprived of his right to be educated due to his parents getting divorced. In **Chandrashekhar v. Swapnil and Anr., Criminal Appeal Nos. 265-266 of 2021**, the Supreme Court had upheld the arrangement to provide maintenance to the son until he completed his first degree course after high school so as to ensure that he becomes a self-supporting individual and can live in dignity. In **Rita Dutta and Anr. v. Subhendu Dutta, (2005) 6 SCC 619**, the Supreme Court had maintained the allowance which had been granted to the elder son who had attained majority.*

*12. In **Jayvardhan Singh Chapotkat v. Ajayveer Chapotkat, Civil Writ Petition No. 2117 of 2012**, while allowing a writ petition on the question as to whether maintenance could be paid to the son by the father even after attainment of majority, the Bombay High Court had held as follows:*

*"16. A major son may not be entitled for maintenance under the Hindu Marriage Act. In the present case, the Petitioner has made out a specific claim for educational expenses which can be availed by him after attaining the age of 18 years. The son/claimant would attain majority as far as age is concerned, however, it would not be the proper age for becoming economically independent so as to earn his living. In the given facts of the case, a major son of a the well-educated and economically sound parents can claim educational expenses from his father or mother irrespective of the fact that he has attained majority. It is not maintenance in strict senses as contemplated under section 125 of the Code of*



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-13-

*Criminal Procedure, 1973 or maintenance as contemplated under Section 20 under Hindu Marriage Act".*

xxxx

*"20. In view of this, this Court is of the opinion that since the father i.e. the respondent is well placed financially, it would be incumbent upon him to bear educational expenses of his son till he is able to earn his own living or till he completes his education. This is in fact, a concession to a major son and therefore, the Petition filed by the Petitioner deserves to be allowed".*

*13. The Madras High Court , in **T. Vimala v. S. Ramakrishnan, Crl. R.C. (MD) No. 180 of 2014**, while noting that daughters could be maintained after attaining majority as a result of section 20 of the Hindu Marriage Act, had emphasised on how the law, i.e. Section 125 of the Code, had to be interpreted liberally as well as the obligation of a father to meet educational expenses of his children. It had observed as follows:*

*"18. The very purpose of Section 125 Cr.P.C., 1973 is also to protect the children from want of roof, food, clothing and necessities of life. Education is an important aspect in children's life. Amounts need to be spent for it. Those expenses are educational expenses. Every father is bound to provide a good education to his children. No father is expected to produce a criminal or a disorderly person. Thus, he has to bear the educational expenses of his children. Children have to maintain their education by meeting the educational expenses. Even a man on the pavement will be dreaming of his children becoming a qualified person in life. Therefore, the obligation of a father to maintain, to meet the educational expenses of his children cannot be excluded for the component of maintenance. Section 125 Cr.P.C., 1973 is not only for food for life, it should also be for food for thought. Otherwise, so far as the children are concerned, we will be doing violence to the very object of Section 125 Cr.P.C., 1973"*



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-14-

*21. The context of Section 125 Cr.P.C., 1973 is to ensure that the wife and the children of the husband are not left in a state of destitution after the divorce. The husband must also carry the financial burden of making certain that his children are capable of attaining a position in society wherein they can sufficiently maintain themselves. The mother cannot be burdened with the entire expenditure on the education of her son just because he has completed 18 years of age, and the father cannot be absolved of all responsibilities to meet the education expenses of his son because the son may have attained the age of majority, but may not be financially independent and could be incapable of sustaining himself. A father is bound to compensate the wife who, after spending on children, may hardly be left with anything to maintain herself.*

*22. In light of the above, the application is accordingly dismissed.”*

16. Reverting to the case in hand, though petitioner No.2 has now attained the age of majority, however, the Court cannot turn a blind eye to the fact that he is at a crucial stage of career building, that would form the basis for his life to come. It is also not the case where the father is not in a position to support the education of his child, who is pursuing his Bachelors in Engineering. Therefore, given the sound economic status of the respondent, and the fact that both his parents are also well qualified, this Court, to secure the ends of justice and only for the purpose of addressing the peculiar facts and circumstances of this case, is not inclined to deprive petitioner No.2 of financial support from his father which has been granted by the learned family Court on account of his educational expenses.

17. As a corollary of the foregoing discussion, the impugned order is clarified and modified to the extent that the maintenance to the petitioners is to be paid from the date of filing of the maintenance application i.e.



**CRR(F)-903-2022(O&M) and  
CRR(F)-717-2022(O&M)**

-15-

10.06.2009. Uptil 31.12.2018, the same shall be paid at the rate of Rs 20,000 per month (Rs.15,000/- in favour of petitioner No.1-wife and Rs. 5,000/- in favour of petitioner No.2-son). Thereafter, the maintenance shall be to the tune of Rs. 35,000/- per month to petitioner No.1-wife, as provided for in the impugned order dated 14.07.2022. However, maintenance to be paid to petitioner No.2-son is enhanced to Rs. 20,000/- per month, to support his educational expenses. It is also clarified that maintenance to petitioner No.2 shall be paid till the date of his graduation. Accordingly, the petition bearing No.CRR(F)-903-2022 stands disposed of in the aforesaid terms.

18. For reasons discussed hereinabove, the petition filed by the husband (CRR(F)-717-2022) challenging the impugned order dated 14.07.2022 is dismissed.

19. Needless to say that in case of change in circumstances, the parties would be at a liberty to seek appropriate remedies in accordance with law.

20. Pending miscellaneous application(s), if any, also stand(s) disposed of.

**(KIRTI SINGH)  
JUDGE**

08.10.2025  
Kavita

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No