



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL
ON THE 17th OF JULY, 2026
CRIMINAL REVISION No. 4116 of 2024**

Appearance:

Shri Nilesh Kotecha with Ms. Namrata Kotecha, Advocate for the petitioner.

Shri Paritosh Trivedi, Advocate for the respondents.

ORDER

This criminal revision has been preferred by the petitioner (husband) challenging the order dtd.08.07.2024 passed by Principal Judge, Family Court, Balaghat in MJCR No.43/2022, whereby the Family Court has allowed an application under Section 125 Cr.P.C. and awarded an amount of Rs.10,000/- to the respondent 1 (wife) and Rs.5,000/- to the respondent 2 (minor son), towards monthly maintenance.

2. Learned counsel for the petitioner (husband) submits that the Family Court has committed an illegality in passing the impugned order and in awarding the aforesaid amount of maintenance to the respondents without taking into consideration the actual income of the parties and that,



it is the respondent 1/wife, who is residing separately without there being any sufficient cause. Taking this Court to the admissions made by the respondent 1/wife in the affidavit of assets and liabilities filed before the Court below, learned counsel submits that although the respondent 1/wife has admitted her monthly income to be Rs.6,000/-, but has not produced any pay slip and for the reasons not available on record, the Family Court committed an illegality in discarding the pay slip submitted by the petitioner on 31.08.2023 along with the said affidavit, which shows that the petitioner is having monthly income of Rs.24,332/- only. He submits that although the pay slip could not be exhibited in the evidence, but in absence of any rebuttal, the same could have been taken into consideration while awarding the aforesaid amount of maintenance. He also submits that although the respondent 1/wife did not produce her pay slip but in presence of the pay slip of the petitioner/husband available on record, the impugned order of maintenance of Rs.15,000/- p.m. is at higher side and is not sustainable in the existing facts and circumstances of the case. On inter alia submissions he prays for setting aside the impugned order and for allowing the criminal revision.

3. Learned counsel appearing for the respondents 1-2 (wife and minor son) supports the impugned order and prays for dismissal of the



criminal revision. However, he admits that no pay slip has been produced by the respondent 1/wife on record of the Family Court.

4. Heard learned counsel for the parties and perused the record.

5. Perusal of the impugned order shows that the Family Court has taken into consideration each and every aspect of the matter while recording finding to the effect that the respondent 1/wife is residing separately with sufficient cause. Upon due consideration of the entire material available on record, this Court also does not find any illegality in the said findings recorded by the Family Court in respect of separate living of the respondent 1/wife with sufficient cause.

6. So far as, the question of awarding monthly maintenance is concerned, undisputedly the petitioner/husband and respondent 1/wife, both are employed. As per affidavit of assets and liabilities submitted by the respondent 1/wife, she is working as Library Assistant in Government

College, Balaghat but for the reasons best known to her, she has not produced her pay slip, which is a non-compliance of the condition of said affidavit, required to be filed in all the maintenance cases in compliance of directions issued by the Hon'ble Supreme Court in the case of *Rajnesh v. Neha & Anr.*, **(2021) 2 SCC 324**. At the same time, as per pay slip of the petitioner/husband available on record of the Family



Court, he was receiving an amount of Rs.24,332/- p.m. being employed in Basant Agro Tech (I) Limited, Akola.

7. From perusal of paragraph 13 of the impugned order, it is clear that Family Court has, on the basis of the post/designation of the petitioner/husband held by him as Marketing Manager in the Basant Agro Tech (I) Limited, Akola, presumed the monthly salary/income of the petitioner to be Rs.50,000/- per month and on the basis of admission made by the respondent 1/wife in respect of her monthly income of Rs.6,000/- and even in absence of any pay slip of the respondent 1/wife, awarded the aforesaid amount of maintenance.

8. In my considered opinion, in absence of any pay slip of the respondent 1/wife, the Family Court has committed an illegality in accepting the income of the respondent 1/wife to be Rs.6,000/- p.m. on the basis of assertion in the affidavit filed by the respondent 1/wife and even in presence of the pay slip of the petitioner/husband, has committed an illegality in presuming the income of the petitioner/husband to be Rs.50,000/- p.m..

9. The Hon'ble Supreme Court in the case of Rajnesh vs. Neha and another, **(2021) 2 SCC 324**; has held as under:

“70. We feel that the Affidavit to be filed by parties residing in urban areas, would require to be entirely different from the one applicable to rural areas, or tribal areas. For



this purpose, a comprehensive Affidavit of Disclosure of Assets and Liabilities is being attached as Enclosure I and II to this judgment.

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ENCLOSURE I

Affidavit of Assets and Liabilities for Non-Agrarian Deponents

I _____, d/o _____ or s/o _____, aged about _____ years, resident of _____, do hereby solemnly affirm and declare as under:

- A. *****
- B. *****
- C. *****
- D. *****
- E. *****

F. Details of Income of the Deponent

1. Name of employer:
2. Designation:
3. Monthly income:

4. If engaged in Government Service, furnish latest Salary Certificates or current Pay Slips or proof of deposit in bank account, if being remitted directly by employer.

5. If engaged in the private sector, furnish a certificate provided by the employer stating the designation and gross monthly income of such person, and Form 16 for the relevant period of current employment.

6. If any perquisites, benefits, house rent allowance, travel allowance, dearness allowance or any other service benefit is being provided by the employer during the course of current employment.

7. Whether assessed to income tax?

If yes, submit copies of the Income Tax Returns for the periods given below :

- (i) One year prior to marriage
- (ii) One year prior to separation
- (iii) At the time when the Application for maintenance is filed

8. Income from other sources, such as rent, interest, shares, dividends, capital gains, FDRs, Post office deposits, mutual funds, stocks, debentures, agriculture, or business, if any, alongwith TDS in respect of any such income.



9. Furnish copies of Bank Statement of all accounts for the last 3 years.”

10. Also in the case of Smt. Geeta & Anr. v. The State & Anr., 2025

LiveLaw (Del) 1108 = 2025 Supreme(Online)(Del) 48735 decided on

10.09.2025, a Coordinate Bench of Delhi High Court has held as under:

“10. In the above context, this Court has carefully examined the evidence on record as well as the findings recorded by the learned Family Court. Insofar as the wife’s claim for maintenance is concerned, it emerges that she had admitted in her cross-examination that she is employed in the Education Department at Khekra, Baghpat, though on a temporary basis. She further admitted that her salary slip of December 2016 reflected her salary as Rs. 33,052/- and her income tax return for the year 2017-2018 also disclosed an annual income of Rs. 4,00,724/-, though it is her case that thereafter, her services were terminated by way of judgment dated 25.07.2017 passed by the Hon’ble Supreme Court, after which she was working on a temporary basis. **While she claimed that her current salary is only Rs. 10,000/- per month, she failed to produce any recent salary slip or Form-16 to substantiate the same, and thus, no recent salary certificate was placed before the learned Family Court despite opportunities given by the learned Trial Court. She also did not offer any plausible explanation in the evidence for withholding recent salary details.**

11. The learned Family Court, thus rightly reached to a conclusion that such omission, without any cogent explanation, casts a doubt on the genuineness of her claim and justifies an adverse inference against her. The learned Family Court, therefore, rightly held that the wife had concealed her actual income and withheld the most relevant documents which alone could establish her present financial incapacity. **This Court concurs with that view, as the primary ingredient for grant of maintenance to a wife under Section 125 Cr.P.C. – i.e. her inability to maintain herself – has not been satisfactorily proved, in absence of clear and reliable evidence of financial hardship, the claim of the wife becomes speculative and cannot be sustained.”**

11. In view of the aforesaid and in my considered opinion, the Family Court ought to have directed both the parties to produce the current pay slip on record, as the same constitutes cogent evidence for determining the Income/financial status of parties to the lis and then on that basis ought to have passed the impugned order awarding maintenance to the respondents. Without there being any proper proof of income of



Respondent 1/wife the Family Court is not right in accepting the income of Respondent 1/wife to be Rs.6,000/- per month. Similarly, the Family Court is not right in presuming monthly salary of the petitioner/husband to be Rs.50,000/- p.m. ignoring the available pay-slip regarding salary of the petitioner/husband. If the Court was not satisfied with the photocopy of pay slip of the petitioner/husband's income, then the production of a fresh/original pay slip could have been ordered.

12. Since the aforesaid aspect has not been considered properly and in real perspective, therefore, the impugned order deserves to be and is hereby **set aside** and the matter is remanded to the Family Court to decide the application under Section 125 Cr.P.C. afresh after restoring the application to its original number.

13. Parties are directed to appear before the Family Court on 18.08.2026. Needless to mention that if the parties do not appear on the given date, the Family Court shall issue fresh notice/summons to the parties with a view to secure their presence.

14. With the aforesaid, this criminal revision is **partly allowed and disposed of.**

15. Pending application(s), if any, shall stand disposed of.

16. It is also hereby observed that till the decision of application under Section 125 of Cr.P.C., the petitioner shall pay an amount of



Rs.10,000/- per month w.e.f. 01.07.2026 and shall clear the dues upto 30.06.2026 @ Rs.15,000/- per month as has been ordered by the Family Court.

(DWARKA DHISH BANSAL)
JUDGE

KPS