



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

**CRR(F) No.476 of 2026
Date of decision: 06.08.2026**

Jagga Ram

...Petitioner

Versus

Neelam Rani and another

...Respondents

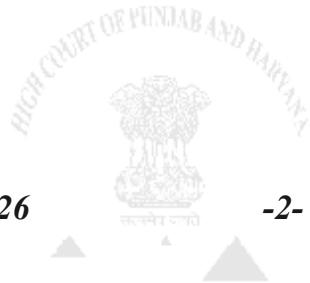
CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present :- Mr. Karan Garg, Advocate
for the petitioner.

MANDEEP PANNU, J. (Oral)

1. The present criminal revision petition has been filed against the judgment dated 27.01.2026 passed by learned Principal Judge, Family Court, Fatehabad, whereby the application filed by respondent No.1-wife and respondent No.2-minor son under Section 125 Cr.P.C. seeking maintenance was allowed and the petitioner was directed to pay maintenance @ ₹7,500/- per month to the respondents, i.e Rs.5000/- per month to respondent No.1-wife and Rs.2,500/- per month to respondent No.2-child till his attaining the age of majority. Aggrieved against the said order, the petitioner has invoked the revisional jurisdiction of this Court.

2. Briefly stated, respondent No.1, claiming herself to be the legally wedded wife of the petitioner, along with respondent No.2-minor son, instituted a petition under Section 125 Cr.P.C. before learned Family



Court, Fatehabad, seeking maintenance. It was pleaded that the marriage between the parties was solemnized on 12.12.2015 according to Hindu rites and ceremonies and that a male child, namely Manpreet, was born out of the said wedlock. It was further alleged that after the marriage, respondent No.1 was subjected to cruelty, harassment and repeated demands for dowry, compelling her to leave the matrimonial home. It was averred that despite having sufficient means, the petitioner had neglected and refused to maintain the respondents. On these assertions, maintenance of ₹30,000/- per month was claimed.

3. Upon notice, the petitioner appeared and filed a detailed reply controverting the allegations levelled in the petition. A preliminary objection was raised that respondent No.1 had suppressed material facts from the Court, inasmuch as her earlier marriage was subsisting on the date of her alleged marriage with the petitioner, rendering the subsequent marriage null and void in the eyes of law. It was further pleaded that respondent No.1 had earlier filed a maintenance petition on the same cause of action, which had been dismissed in default, but the said fact had been deliberately concealed while instituting the present proceedings. The petitioner also pleaded that a petition under Section 11 of the Hindu Marriage Act, 1955 seeking a declaration of nullity of marriage was already pending before the competent Family Court. It was additionally asserted that respondent No.1 was an educated lady, employed as a teacher in a private school, capable of maintaining herself, and had voluntarily withdrawn from the society of the petitioner without any sufficient cause.

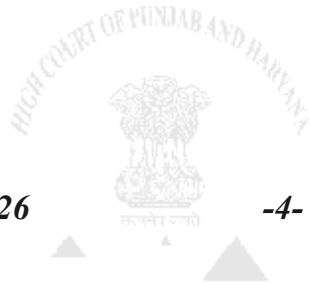


The claim for maintenance was, accordingly, opposed.

4. Both the parties adduced oral as well as documentary evidence before the learned Family Court. Respondent No.1 stepped into the witness box and examined herself in support of the averments made in the maintenance petition. Ex.P1 to Ex.P-10 and Mark-P1 to P14 were produced as evidence pertaining to the alleged marriage, the birth of respondent No.2 and other supporting documents. On the other hand, the petitioner led evidence in support of the pleas taken in the written statement and produced documentary material as Ex.R1 to R3 to establish that respondent No.1 had concealed her earlier subsisting marriage, that an earlier maintenance petition filed by her had already been dismissed in default, and that proceedings under Section 11 of the Hindu Marriage Act challenging the validity of the alleged marriage were pending before the competent Court.

5. Upon appreciation of the pleadings and evidence adduced by the parties, the learned Additional Principal Judge, Family Court, Fatehabad, vide judgment dated 27.01.2026, allowed the petition under Section 125 Cr.P.C. and directed the petitioner to pay maintenance at the rate of ₹7,500/- per month (in total) to the respondents, i.e Rs.5,000/- per month to respondent No.1-wife and Rs.2,500/- per month to the minor child till attaining the age of majority.

6. Feeling aggrieved by the above-said order, the present petition has been filed by the petitioner-husband to challenge the order dated 27.01.2026 passed by learned Principal Judge, Family Court, Fatehabad.



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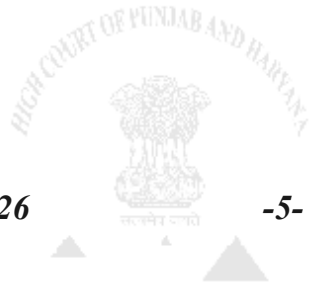
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7. Learned counsel for the petitioner contends that the impugned order suffers from patent illegality and material irregularity, having been passed in complete disregard of the pleadings and evidence available on record. It is further contended that the alleged marriage between the petitioner and respondent No.1 is void *ab initio*, as respondent No.1 had contracted the said marriage during the subsistence of her earlier marriage, without obtaining a decree of divorce from her first husband. Consequently, she does not fall within the definition of a “wife” for the purpose of claiming maintenance under Section 125 Cr.P.C. Learned counsel further submits that the petitioner has already instituted proceedings under Section 11 of the Hindu Marriage Act, 1955, seeking a decree of nullity of marriage, which are presently pending before the competent Family Court. It is further contended that respondent No.1 had earlier instituted a petition seeking maintenance on the same cause of action, which was dismissed in default. It is further argued that respondent No.1 is an educated lady, having worked as a teacher in a private school, and is fully capable of maintaining herself. Despite specific pleadings and evidence to that effect, learned Family Court failed to consider the same while passing the impugned order. Learned counsel for the petitioner has relied upon the judgment of the Hon’ble Supreme Court in '*Savitaben Somabhai Bhatiya vs. State of Gujarat and others*', (2005) 3 SCC 636, to contend that a woman whose marriage is void on account of the subsistence of an earlier marriage is not entitled to claim maintenance as a “wife” under Section 125 Cr.P.C.



8. The short question involved in the present revision petition is the challenge to the order granting interim maintenance under Section 125 Cr.P.C. The controversy raised is limited in nature and does not require issuance of notice to the respondents at this stage. Accordingly, notice to the respondents stands dispensed with.

9. I have heard the learned counsel for the petitioner and gone through the record carefully.

10. The principal question which arises for consideration in the present revision petition is whether respondent No.1 can be denied maintenance merely on the ground that her alleged marriage with the petitioner is stated to have been contracted during the subsistence of her earlier marriage and, therefore, according to the petitioner, she does not fall within the expression “wife” occurring in Section 125 Cr.P.C. The question also has to be examined in the backdrop of the admitted circumstances that the parties lived together as husband and wife for a considerable period and a child was born out of their relationship.

11. There can be no quarrel with the proposition laid down by the Hon’ble Supreme Court in *Savitaben Somabhai Bhatiya (supra)*, which was rendered in the facts of that case and wherein the claim of maintenance by the second wife was considered in the context of the subsistence of the first marriage. However, the legal position has subsequently been considered by the Hon’ble Supreme Court in '*Smt. N. Usha Rani and another vs. Moodududla Srinivas*', 2025 SCC OnLine SC 225, decided on 30.01.2025. The said judgment is of considerable relevance to the



controversy involved in the present case. The Hon'ble Supreme Court considered the divergence in judicial opinion concerning the entitlement of a woman to maintenance under Section 125 Cr.P.C. where the parties had lived together as husband and wife, notwithstanding the alleged invalidity of the marriage.

12. In *Smt. N. Usha Rani (supra)*, the Hon'ble Supreme Court noticed the judgment in '*Chanmuniya vs. Virendra Kumar Singh Kushwaha and another*', (2011) 1 SCC 141, wherein a Division Bench of the Court, keeping in view the social object underlying Section 125 Cr.P.C., had expressed the view that the expression "wife" ought to receive a broad and expansive interpretation so as to include even a woman who had lived with a man for a reasonably long period as his wife. The Court in *Chanmuniya (supra)* also emphasised that a man should not be permitted to take advantage of legal loopholes by enjoying the benefits of a de facto marriage while avoiding the corresponding duties and obligations. The question was consequently referred for consideration by a larger Bench. The Hon'ble Supreme Court, while considering the subsequent legal position, reiterated the social-justice objective underlying Section 125 Cr.P.C. and the necessity of adopting an interpretation which prevents a woman from being reduced to destitution merely because of technicalities concerning the validity of the marital relationship.

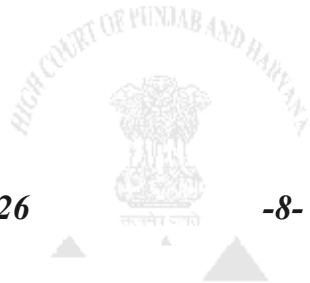
13. Significantly, the Hon'ble Supreme Court in *Smt. N. Usha Rani (supra)* also considered the earlier judgments in *Yamunabai Anantrao Adhav vs. Anantrao Shivram Adhav and another*, (1988) 1 SCC



530, Bakulabai and another vs. Gangaram and another, (1988) 1 SCC 537, and Savitaben Somabhai Bhatiya (supra). In paragraph 14, the Court specifically noticed that the view taken in those decisions was based upon a strict interpretation of the expression “wife” under Section 125 Cr.P.C., and that the decision in *Savitaben Somabhai Bhatiya (supra)* followed those earlier decisions. The Court thereafter considered the divergence in judicial opinion and the broader interpretation required having regard to the object of Section 125 Cr.P.C.

14. The Hon’ble Supreme Court ultimately held, in the facts before it, that a woman could claim maintenance from her second husband under Section 125 Cr.P.C. even though her first marriage had not been dissolved by a decree of divorce, where she was de facto separated from her first husband and was not deriving any rights or entitlements from the first marriage, particularly where the second husband was aware of the circumstances and had nevertheless entered into the relationship with her. The Court thus treated the question not merely from the technical standpoint of the validity of the second marriage but also from the perspective of the social-justice purpose of Section 125 Cr.P.C.

15. The aforesaid judgment, therefore, makes it clear that the decision in *Savitaben Somabhai Bhatiya (supra)* cannot be mechanically applied to every case where an objection is raised regarding the subsistence of an earlier marriage. The subsequent pronouncement in *Smt. N. Usha Rani (supra)* has specifically considered the earlier line of authorities and explained the circumstances in which the claim for maintenance is required



to be examined in the light of the beneficial and remedial object of Section 125 Cr.P.C.

16. Coming to the facts of the present case, learned Family Court, after appreciation of the evidence led by the parties, has recorded a finding in favour of respondent No.1 and has awarded maintenance at the rate of ₹7,500/- per month to respondent No.1 and ₹2,500/- per month to the minor child. The material available on record shows that the parties had lived together for a considerable period as husband and wife and a child was also born from the said relationship. The petitioner seeks to defeat the claim of respondent No.1 primarily on the basis of the alleged subsistence of her earlier marriage. However, in view of the subsequent authoritative pronouncement of the Hon'ble Supreme Court in ***Smt. N. Usha Rani (supra)***, such an objection, by itself, cannot be treated as sufficient to non-suit a woman seeking maintenance under Section 125 Cr.P.C., particularly when the surrounding circumstances and the nature and duration of the relationship are taken into consideration.

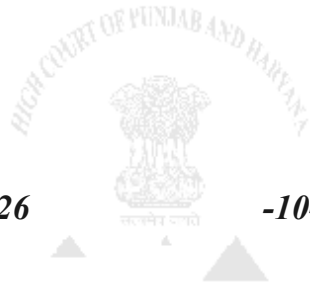
17. The further contention of the petitioner that respondent No.1 had earlier instituted a maintenance petition which was dismissed in default also does not advance his case. A dismissal in default is fundamentally different from an adjudication of the claim on merits. The petitioner has not been able to demonstrate that the earlier proceedings culminated in any final determination on merits disentitling respondent No.1 from pursuing her claim in the present proceedings. Mere dismissal of an earlier petition for non-prosecution, without adjudication of the substantive claim, cannot



operate as a bar to the present proceedings.

18. Equally, the contention that respondent No.1 is an educated lady and had worked as a teacher cannot, in itself, be a ground for completely denying maintenance. The entitlement to maintenance has to be considered on the basis of the material regarding the actual means and circumstances of the parties and the statutory parameters governing a claim under Section 125 Cr.P.C. Learned Family Court, upon appreciation of the evidence has exercised its discretion and awarded only ₹7,500/- per month to respondent No.1. Having regard to the object of Section 125 Cr.P.C., the said amount cannot, by any reasonable standard, be characterised as excessive or disproportionate. Rather, the amount awarded is a modest amount intended to provide basic financial support to respondent No.1. It is also required to be kept in view that the jurisdiction of this Court in a criminal revision is not to substitute its own view merely because another view may be possible. Interference is warranted only where the order under challenge suffers from patent illegality, perversity, gross misappreciation of evidence or material irregularity resulting in failure of justice. On a careful consideration of the entire matter, no such infirmity is discernible in the impugned order.

19. Learned Family Court has considered the evidence available on record and has assigned cogent reasons for granting maintenance to respondent No.1 and the minor child. The findings recorded by the learned Family Court are neither shown to be perverse nor contrary to the material on record. The subsequent authoritative pronouncement of the Hon'ble



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Supreme Court in **Smt. N. Usha Rani (supra)** also does not support the narrow proposition advanced on behalf of the petitioner; rather, it emphasises that Section 125 Cr.P.C. is a measure of social justice and its application cannot be defeated by technicalities where the factual circumstances otherwise justify the grant of maintenance.

20. In view of the foregoing discussion, this Court finds no illegality, perversity or material irregularity in the impugned judgment dated 27.01.2026 passed by learned Principal Judge, Family Court, Fatehabad, warranting interference in exercise of revisional jurisdiction.

21. Consequently, the present revision petition is dismissed. The amount of maintenance awarded by learned Family Court shall remain undisturbed.

22. Revision petition stands dismissed accordingly.

23. All pending applications, if any, also stand disposed of.

(MANDEEP PANNU)
JUDGE

06.08.2026

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No