



2026:DHC:3870



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Reserved on: April 24, 2026*
Pronounced on: May 06, 2026

+ **CRL.REV.P. 485/2018 & CRL.M.As. 10288/2018, 33983/2019**

SH. RAJ KUMAR

.....Petitioner

Through: Ms. Madhumita Kothari, Advocate
(Through VC)

Versus

SMT. POONAM SHARMA

.....Respondent

Through: Ms. Indu Kaul, Mr. Abhishekh Sahu
and Mr. Vijender, Advocates Ms. Nidhi
Mohan Parashar, Amicus Curiae with
Mr. Vikrant Kumar and Mr. Amar
Bajpayee, Advocates.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present petition under *Section 401* of the Code of Criminal Procedure, 1973¹, the petitioner/ husband seeks setting aside of the order dated 27.02.2018² passed by the learned Principal Judge, Family Court, Patiala House Courts, New Delhi³ in M. No.27/2012 whereby the respondent/ wife has been held entitled to maintenance of Rs.3,000/- per month under *Section 125 CrPC* to be paid by the petitioner till she is alive/ gets remarried,

¹ Hereinafter '*CrPC*'

² Hereinafter '*impugned order*'

³ Hereinafter '*Family Court*'



along with directions to the petitioner to clear the arrears as also to deposit an amount of *Rs.11,000/-* as litigation expenses.

2. *Succinctly put*, marriage between the petitioner and the respondent was solemnised on 26.05.2009 at Muzaffarnagar, Uttar Pradesh as per Hindu rites and ceremonies, whereafter the parties cohabited in the respondent's house in New Delhi, *albeit* their relations turned sour soon after. As per respondent, the petitioner started misbehaving with her, assaulting her every day and beat her repeatedly in December 2009 as well as January 2010, whereafter the petitioner shifted to her mother's house. However, since she did not have any means to sustain herself, as her father had expired and she was wholly dependent upon her mother and her brother, she filed a petition seeking maintenance wherein the impugned order has been passed.

3. Learned counsel for the petitioner herein primarily submitted that the impugned order has been passed erroneously, inasmuch as it did not appreciate the respondent's admission *qua* her already being married before marrying to the petitioner, as also she had not been granted divorce from her first husband. Based thereon, the learned counsel submitted that since the respondent did not disclose the same in her maintenance petition before the learned Family Court, as also the earlier maintenance petition filed by her against her first husband and her application for restoration of the divorce petition against the first husband wherein she described herself as the wife of the first husband, the respondent did not approach the Court with clean hands, and hence, no relief could have been granted to her, more so since the respondent was not legally wedded '*wife*' of the petitioner under *Section 125*



CrPC. The learned counsel also submitted that false assertions were made by the respondent in her petition, as the petitioner did not commit any act(s) of cruelty against her, but it was rather the respondent who displayed intolerable and abnormal behaviour towards the petitioner and is also medically unfit to conceive a child.

4. Learned counsel further submitted that the learned Family Court committed an error while passing the impugned order as it did not have the territorial jurisdictional to try and/ or entertain the same, since marriage between the parties was solemnised at Muzaffarnagar, Uttar Pradesh. Lastly, the learned counsel submitted that the learned Family Court arrived at the figure of *Rs.3,000/-* without any basis and/ or consideration that the petitioner was currently unemployed and did not have a source of income, as also the averments *qua* the petitioner having *3 bighas* land with accommodation of *6 to 7 rooms* were unfounded in any evidence.

5. *Per contra*, learned counsel for the respondent at the outset submitted that the present petition has been filed with a delay of over *60 days* without seeking condonation thereof, and as such, the same is not maintainable. Even otherwise, since the petitioner chose not to lead any evidence before the learned Family Court, the contentions sought to be urged by him before this Court cannot be permitted, especially since the learned Family Court has considered all relevant factors and then passed the impugned order granting maintenance of *Rs.3,000/-* per month in favour of the respondent, who was forcefully removed from her matrimonial home and does not have any other means to sustain herself, and the same ought not to be interfered with.



6. On merits, learned counsel submitted that all allegations *qua* the respondent not being the ‘wife’ of the petitioner under *Section 125 CrPC* are completely farcical, especially, when the learned Family Court after considering that the respondent had only resided with her first husband for *one month* whereafter she had not seen him for *12 years* and holding that there was a presumption that he had since deceased, has already decided the said issue. The learned counsel also submitted that the petitioner as also every other villager were well aware of the same, and hence their marriage was solemnised in front of *100-200 people* openly. In any event, the learned counsel relied upon the judgements of the Hon’ble Supreme Court in *Dwarika Prasad Satpathy vs. Bidyut Prava Dixit & Anr.*⁴, *Chanmuniya vs. Virendra Kumar Singh Kushwana & Anr.*⁵ and *Badshah vs. Sou Urmila Badshah Godse & Anr.*⁶ to submit that the term ‘wife’ under *Section 125 CrPC* is not to be given a strict interpretation and should be construed liberally in order to achieve the objective thereof.

7. Learned *amicus curiae*, relying upon *Chanmuniya (supra)*, also submitted in support of a liberal construction of *Section 125 CrPC* and referred to *Badshah (supra)* and *N. Usha Rani & Anr. vs. Moodudula Srinivas*⁷ to submit that provisions *qua* maintenance are social-welfare oriented, and even in cases of a void marriage, the same may be invoked for granting the relief. She also relied upon *Pyla Mutyalamma vs. Pyla Suri*

⁴ [1990] SUPP. 3 S.C.R.,

⁵ [2010] 12 S.C.R. 223

⁶ [2013] 10 S.C.R. 259

⁷ 2025 SCC OnLine SC 225



*Demudu*⁸ to submit that this Court ought to exercise restraint while adjudicating a revision petition, especially against an order granting maintenance to the wife, and not interfere therewith unless there is any illegality or material irregularity, and does not have the power to re-evaluate the evidence on record to arrive at fresh findings.

8. This Court has heard learned counsels for the parties as well as learned *amicus curiae* and carefully perused the pleadings and materials on record along with the judgements cited at Bar.

9. Regarding challenge to the impugned order on the aspect of the territorial jurisdiction of the learned Family Court as well as the first marriage of the respondent, this Court finds that the same have been duly addressed by the learned Family Court with cogent reasonings and analysis, and that too after detailed consideration of the pleadings and contentions raised before it and the evidence led by the respondent, whilst the petitioner, who was though duly served before the learned Family Court, chose to never lead any evidence before the learned Family Court.

10. Similarly, the question whether or not the respondent was the 'wife' of the petitioner under *Section 125 CrPC*, once again, the learned Family Court *vide* the well-reasoned impugned order has categorically recorded that though there was no formal decree of divorce from her first husband, the respondent was able to substantiate that she resided with the first husband only for *one month* whereafter he was absconding and she had no contact with him for *12 years*, as also that the petitioner was fully aware about the same. Hence,

⁸ (2011) 12 SCC 189



when the marriage of the parties and their cohabitation as husband and wife were admitted, the respondent was a ‘wife’ within the meaning of *Section 125 CrPC*. Again, where there is no dispute that the petitioner never led any evidence *qua* the same before the learned Family Court, there is no need for a fresh adjudication thereof by this Court.

11. In any event, the Hon’ble Supreme Court in *Captain Ramesh Chander Kaushal vs. Veena Kaushal*⁹; *Vimala (K) vs. Veeraswamy (K)*¹⁰; *Dwarika Prasad Satpathy (supra)*; *Chanmuniya (supra)*; *Badshah (supra)* has time and again reiterated that *Section 125 CrPC* is a measure of social justice especially enacted with the objective to protect women from vagrancy and/ or destitution and hence, as victims of the social environment, their rights cannot be defeated by strict construction of beneficial provisions. In fact, recently in *N. Usha Rani & Anr. (supra)* the Hon’ble Supreme Court even upheld the right of the wife therein to claim maintenance from her second marriage though no formal decree of divorce was passed in her first marriage, considering that the husband therein was unable to prove that he was unaware of the said prior marriage, once again holding that the term ‘wife’ under *Section 125 CrPC* does not warrant strict construction, being a beneficial measure to secure the rights of a dependant woman and for her financial and social protection.

12. In view of the afore-going, and particularly since the petitioner has not been able to point out any perversity/ illegality/ irregularity/ patent error/

⁹ (1978) 4 SCC 70

¹⁰ (1991) 2 SCC 375



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perversity/ arbitrariness in the impugned order dated 27.02.2018 passed by the learned Family Court, that too in a petition of the present nature wherein the scope of interference by this Court is itself limited [*Amit Kapoor vs. Ramesh Chander & Anr.*¹¹, *Pyla Mutyalamma (supra)*], this Court does not see any reason for interfering with the impugned order.

13. Accordingly, the present petition along with the pending applications is dismissed.

MAY 06, 2026
Ab/RS

SAURABH BANERJEE, J

¹¹ (2012) 9 SCC 460