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

% *Date of decision: April 09, 2025*

+ CRL.REV.P. 596/2012, CRL.M.A. 33381/2018, CRL.M.A.
33548/2018, CRL.M.A. 39484/2019

(1)MADHURI PANDEY

w/o Sohan Lal Pandey

d/o Late Shri Ram Chandra Pandey

R/o B-78 FF, Paryavaran Complex

IGNOU Road, New Delhi-110030

(2)JAIJAIMINI PANDEY (Minor)

d/o Sohan Lal Pandey (through natural Guardian mother)

R/o B-78 FF, Paryavaran Complex

IGNOU Road, New Delhi-110030

.....Petitioners

Through: Mr. Abdul Kadir and Ms. Gulfeshan
Javed, Advocates

Versus

SOHAN LAL PANDEY

Village Bihahar,

Post Parasrampur via Lamubha

District Sultanpur UP

.....Respondent

Through: In person with Mr. Rajesh K. Pandey,
Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Criminal Revision Petition under Sections 397/401 Cr.P.C. has been filed by the Petitioners against the *ex parte* Order and



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Judgment dated 03.09.2012, whereby the learned Family Court in Petition under Section 125 Cr.P.C., has awarded maintenance in the sum of Rs.2,500/- per month to the Petitioners.

2. **Briefly stated**, Petitioner No.1 married the Respondent on 04.06.1994 according to Hindu Rites and Customs. Petitioner No.2 was born from this wedlock on 01.02.2001.

3. It is claimed by Petitioner No.1 that soon thereafter, she was harassed for bringing insufficient dowry and a sum of Rs.1,00,000/- was demanded for the business of the Respondent. She was also subject to physical torture in the matrimonial home by not providing her food, clothes etc. She has claimed that on 25.06.2001, the Respondent and his family members tried to burn her by pouring kerosene oil on her, but she was able to escape from the clutches of the Respondent and his family members. She has been living in her parental home since 2001.

4. Having no source of income, Petitioner filed a Petition under Section 125 Cr.P.C. on 09.03.2011. Respondent was duly served by affixation, but he failed to appear or contest the proceedings. Evidence was led by the Petitioner and *vide* Judgment dated 03.09.2012, maintenance in the sum of Rs.1,500/- per month to Petitioner No.1 and Rs.1,000/- per month to Petitioner No.2 (daughter), was awarded.

5. Aggrieved by the quantum of maintenance awarded *vide* impugned *ex parte* Order and Judgment dated 03.09.2012, the Petitioner has preferred the present Petition.

6. Essentially, ***the grounds on which the impugned Order and Judgment dated 03.09.2012 is challenged*** are that the learned Family Court



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has fallen in error in observing that there is no proof of income of Respondent or of his having additional income from agricultural land and has taken his income on the basis of minimum wages of unskilled worker and awarded the maintenance. In fact, the Respondent is doing some reputed job in Surat, Gujarat and is earning Rs.40,000/- per month. He also has side business in U.P. and maintaining bank accounts and has huge agricultural land.

7. The Petitioner No.1 is not working and is a housewife and has no source of independent income. She and her daughter are in great financial difficulty and she needs financial help from Respondent. Hence, a prayer is made that the amount of maintenance awarded be enhanced.

8. ***The Respondent in his Reply*** has taken the preliminary objection that Petitioner No.1 herself has deserted him. He has filed a Petition under Section 9 of Hindu Marriage Act seeking *Restitution of Conjugal Rights*, which is pending before Principal Bench, Family Court, District Sultanpur, Uttar Pradesh.

9. It is asserted that false allegations of harassment and torture have been made by Petitioner No.1. The Respondent has always been willing to take her back to matrimonial home but this Petition has been filed with *mala fide* intention and ulterior motive to cause monetary loss to Respondent.

10. Furthermore, Petitioner No.1 is well aware that Respondent has no independent source of income and is completely dependent upon 2 Bighas of agricultural land and is somehow managing himself.

11. Also, since the marriage took place in District Sultanpur, UP, this Court has no jurisdiction to entertain the present Petition. It is



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further asserted that because of his financial limitations, he was unable to contest the proceedings before the learned Family Court and *ex parte* judgment has been granted against him.

12. ***On merits***, all the averments in the petition are denied. In the end, it is contended that learned Family Court has passed a well reasoned Order which merits no interference. His claim that he is hardly able to meet his own expenses, is not disproved in evidence.

13. The Respondent has placed before this Court, the Khasra Girdwari of his agricultural land, which his approximately 2 bigas.

14. ***In her Rejoinder affidavit, the Petitioner No.1 has reaffirmed*** the assertions made in the Petition. It is further explained that Petition under Section 9 of Hindu Marriage Act was filed by the Respondent, as a counter blast to the cases filed by the Petitioner. Furthermore, she has no knowledge about the pendency of the Petitioner under *Section 9 of the Hindu Marriage Act*. She further denied vehemently that she has deserted the Respondent. It was also denied that the Respondent is a poor man, having no source of income. It is claimed that Respondent has huge agricultural land as reflected in the Revenue Record and that he has failed to disclose complete details of his income.

15. ***Submissions heard and record perused.***

16. It is an admitted case that the parties got married on 04.06.1994 and one daughter was born from this wedlock on 01.02.2001. It is not in dispute that the parties separated on 26.06.2001. According to Petitioner No.1, an attempt was made to kill her by pouring kerosene and she had to leave her matrimonial home to save her life. She has since then been living at her



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parental house.

17. The present Petition has been filed on 26.03.2011 i.e. after ten years of actual separation in 2001. Admittedly, Petitioner No.1 got remarried on 05.07.2014. Since she got remarried, *her claim to seek maintenance from Respondent is limited to the period from 16.03.2011 till 05.07.2014.*

18. The sole ground of challenge to the maintenance is that Respondent is a rich man, having huge properties and working somewhere in Surat, Gujrat and earning Rs.40,000/- per month, despite which his income has been assessed on the basis of *Minimum Wages* of unskilled worker.

19. The learned Family Court has rightly observed that aside from assertion that Respondent was working in Surat, not a single document has been produced by the Petitioner either in respect of salary to establish that he had been working in Surat or having income from huge ancestral Properties or additional source of income from additional business.

20. It has also been vehemently contended on behalf of the Petitioner that Respondent owns huge agricultural land from where he is having substantial income. However, the Respondent has placed on record his revenue record and claimed that he is barely able to meet his expenditure from his agricultural income. The Khasra Girdawri reflects that he barely owns Two Bighas of land and it belies the claim of the Petitioner that he has substantial income.

21. There-being no cogent evidence whatsoever, except empty assertions without even disclosing any details about nature of job or name of employer, the learned Family Court has rightly assessed the income of the Respondent as per *Minimum Wages for the unskilled worker, which was Rs.6,656/- per*



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month and Respondent No.1 has been given maintenance of Rs.1,500 per month and Rs.1,000/- per month has been given for Respondent No.2.

22. Thus, considering the evidence brought on record, the maintenance amount has been rightly granted to the two Petitioners. There is no evidence produced to justify enhancement of the maintenance.

23. ***There is no merit in the present Petition and it is accordingly dismissed and the pending Application(s) are disposed of accordingly.***

24. At this stage, learned Counsel for Respondent submits that Respondent is willing to deposit Rs.30,000/- in cash towards the arrears of maintenance, which he undertakes to deposit before the learned Joint Registrar within seven days. It is further submitted that the Respondent shall deposit the balance amount of Rs.82,000/- within two months.

25. The amount so deposited be converted into Fixed Deposit Receipt in auto renewal mode, in the name of Petitioner No.2-Ms. Jay Jaimini Pandey, daughter of the parties.

**(NEENA BANSAL KRISHNA)
JUDGE**

APRIL 09, 2025

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