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

% *Judgment reserved on: 09.01.2026*
Judgment pronounced on: 27.02.2026
Judgment uploaded on: 27.02.2026

\+ **CRL.REV.P. 520/2024 & CRL.M.A. 17787/2023**

SANYOGITA GUPTA & ORS. ....Petitioners

Through: Mr. S. D. Windlesh, Adv.

versus

ASHOK KUMAR GUPTA .....Respondent

Through: Mr. Nitin Saluja and Ms. Ishita Soni, Advs.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. By way of the present petition, the petitioners are challenging the order dated 25.09.2019 [hereafter '*impugned order*'], passed by the learned Family Court, East District, Karkardooma Courts, Delhi [hereafter '*Family Court*'] in CC No. 389/2017, filed under Section 125 of the Code of Criminal Procedure, 1973 [hereafter 'Cr.P.C.'], by the petitioners, claiming maintenance from the respondent.

2. Briefly stated, the facts of the present case are that the petitioner no. 1 is the legally wedded wife of the respondent no. 1. They were engaged to each other on 01.01.1999 and were married on

27.05.2001 in Delhi as per Hindu rites and ceremonies. Out of the said wedlock, two daughters, i.e., petitioner no. 2 and petitioner no. 3, were born on 30.03.2002 and 29.08.2005 respectively. Due to matrimonial discord between the parties, the relationship between them deteriorated and they started living separately. Thereafter, the petitioner, in the year 2016, had filed a petition under Section 125 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'], *inter alia* alleging that she and her minor daughters had been neglected and refused maintenance by the respondent, despite his having sufficient means to maintain them. It was averred that she was a housewife and had no independent source of income to sustain herself or to provide for the education and daily needs of the children. It was further stated that none of the petitioners were earning any income and were dependent upon financial assistance and loans received from friends and relatives for their survival and the educational expenses of the children. It was stated that the respondent was gainfully employed and earning a regular income sufficient to maintain the petitioners but had failed to discharge his legal and moral obligations towards them.

3. By way of the impugned order dated 25.09.2019, the learned Family Court has awarded interim maintenance at the rate of Rs. 5,500/- in favour of each of the petitioners, i.e. Rs. 16,500/-, *however*, only with effect from 01.01.2019. The relevant observations are as under:

> "...11. The present petition has remained pending since 05.03.2016. I am of the opinion that in the peculiar facts of

> this case and for the purpose of the present Order, the interim maintenance be awarded to the petitioners with effect from 01.01.2019 and not from the date of filing of this petition as is the normal rule. The respondent is thus directed to pay Rs.5500/- per month as interim maintenance to each of the petitioners (total Rs.16,500/- per month) with effect from 01.01.2019 till the disposal of the present petition.
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> 12. It is also made clear that the observations made in the present order are for the purpose of disposal of the present interim· maintenance application. The directions issued under this order would be subject to the further directions as may be passed at the time of disposal of this petition. It is also clarified that any amount received by the petitioners towards maintenance from the respondent in any other proceedings or in the present proceedings shall be adjusted against the amount payable under this order.
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> 13. The application for grant of interim maintenance stands disposed off accordingly..."

4. The petitioners are aggrieved only by the limited aspect of the impugned order – directing payment of interim maintenance with effect from 01.01.2019, and not from the date of filing of the petition under Section 125 of Cr.P.C., i.e. 03.03.2016.

5. The learned counsel appearing on behalf of the petitioners submits that the learned Family Court has erred in directing that interim maintenance shall be payable only with effect from 01.01.2019 instead of from the date of filing of the petition, i.e., 05.03.2016, without recording any cogent or special reasons for departing from the normal rule. It is argued that the petition under Section 125 of Cr.P.C. had remained pending for several years for no fault of the petitioners, and they had been compelled to survive on financial assistance from friends and relatives during this period. The

respondent, despite being gainfully employed and earning approximately ₹48,000–50,000 per month at the relevant time, had neither voluntarily maintained the wife and minor daughters nor complied with the interim maintenance order in its true spirit, having paid only a negligible amount and accumulated substantial arrears. It is further contended that the respondent has repeatedly attempted to avoid his statutory obligation by filing multiple applications for reduction or modification, all of which have failed, and has taken inconsistent pleas regarding his financial incapacity, including voluntary retirement and alleged loans, which stand unsupported by any credible material. The petitioners submit that the Family Court, having accepted their entitlement to maintenance and having found no independent source of income in their favour, ought to have granted maintenance from the date of application, and the failure to do so has resulted in grave financial prejudice to the wife and the two daughters, who have been left without lawful support for the prolonged pendency of the proceedings. It is therefore prayed that the impugned order be modified to the limited extent of directing that interim maintenance be payable from the date of filing of the petition.

6. The learned counsel appearing on behalf of the respondent submits that the present petition is wholly misconceived and liable to be dismissed, inasmuch as the learned Family Court has exercised its discretion judiciously and for recorded reasons while directing that interim maintenance be payable with effect from 01.01.2019, having regard to the peculiar facts of the case. It is argued that the law does

not mandatorily require that maintenance must, in every case, be granted from the date of filing of the application, and the discretion vested in the Court to determine the effective date continues to subsist depending upon the facts and equities of each case. It is further contended that the respondent has undergone a substantial change in financial circumstances, having been retrenched from service in January 2020 and remaining without regular income thereafter; he has even suffered imprisonment on account of inability to clear arrears. The respondent submits that the petitioners have, over time, encashed multiple FDRs amounting to substantial sums, withdrawn monies from his account, received compensation under statutory schemes, and are in possession of other financial resources including matured LIC proceeds and interest-bearing deposits. It is also contended that petitioner no. 1 is an educated individual who has concealed bank accounts and is earning through private tuitions, and that the petitioners are residing in accommodation belonging to the respondent's family without paying rent. The respondent further points out his medical condition, including treatment for depression, financial liabilities towards his aged parents, and outstanding loan repayments, which materially affect his capacity to pay. It is thus submitted that there exists no justification either to enhance the maintenance amount to an exorbitant figure or to direct payment retrospectively from 2016, particularly when the Family Court has already assessed the material on record and balanced the competing equities. The respondent accordingly prays that the present revision

petition be dismissed.

7. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent, and has perused the material available on record.

8. This Court notes that the present revision petition has been preferred by the wife and her two daughters, assailing the impugned order on the ground that the learned Family Court, while granting interim maintenance, erred in directing that the same shall be payable with effect from 01.01.2019 instead of from the date of filing of the petition under Section 125 of Cr.P.C., i.e., 05.03.2016, and further failed to award an appropriate and commensurate amount having regard to the respondent's income and the needs of the petitioners.

9. Therefore, the principal issue which arises for consideration is whether the learned Family Court was justified in directing that interim maintenance shall be payable from 01.01.2019, or whether, in the facts and circumstances of the case, the petitioners are entitled to interim maintenance from the date of filing of the petition under Section 125 of Cr.P.C. The ancillary issue, as urged by the petitioners, also concerns the adequacy of the quantum of maintenance awarded in their favour.

10. As regards the issue of date from which maintenance is to be granted, the Hon'ble Supreme Court in ***Rajnesh v. Neha:*** *(2021) 2 SCC 324* has held and directed as under:

> "**109**. The judgments hereinabove reveal the divergent views of

different High Courts on the date from which maintenance must be awarded. Even though a judicial discretion is conferred upon the Court to grant maintenance either from the date of application or from the date of the order in Section 125(2) Code of Criminal Procedure, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 Code of Criminal Procedure In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

110. In *Shail Kumari Devi and Ors. v. Krishnan Bhagwan Pathak*, this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In *Bhuwan Mohan Singh v. Meena*, this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9 years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual. The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.

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VI. *Final Directions*

(a) ... …
(b) ... …
(c) ... …

(d) Date from which maintenance is to be awarded

131. 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."

11. In ***Shahjahan v. State of Uttar Pradesh & Anr.:*** *2025 INSC 528*, the Hon'ble Supreme Court considered the issue regarding the date from which maintenance under Section 125 of Cr.P.C. ought to be made payable. The relevant observations are extracted herein

below:

> "17. This brings us to the next question, i.e., from which date will the maintenance be payable – the date of the application or the date of the Order? The appellant has contested the direction of the Family Court wherein it has made the maintenance payable from the date of the order instead of the date of application. Of course, Section 125(2) of the Code empowers the Court to award maintenance from the date of the order but the same has to be justified in the background of the attendant facts and circumstances and should not cause unnecessary hardship to the applicant. In our view, Section 125 of the Code is a beneficial piece of legislation which has been enacted to protect the wife and children from destitution and vagrancy and, in the usual course, it would not be appropriate to disadvantage the applicant for the delay in the disposal of the application by the judicial system. It would be beneficial to reproduce the relevant discussion in ***Rajnesh v Neha, (2021) 2 SCC 324***, which is extracted hereunder:
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>> '109. The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded. Even though a judicial discretion is conferred upon the court to grant maintenance either from the date of application or from the date of the order in Section 125(2) CrPC, it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 CrPC. In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.
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>> 110. In Shail Kumari Devi v. Krishan Bhagwan Pathak [Shail Kumari Devi v. Krishan Bhagwan Pathak, (2008) 9 SCC 632: (2008) 3 SCC (Cri) 839], this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In Bhuwan Mohan Singh v. Meena [Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353: (2015) 3 SCC (Civ) 321: (2015) 4 SCC (Cri) 200], this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9

years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual. The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.

111. The rationale of granting maintenance from the date of application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband. Financial constraints of a dependent spouse hamper their capacity to be effectively represented before the court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the court concerned.

112. In Badshah v. Urmila Badshah Godse [Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188: (2014) 1 SCC (Civ) 51], the Supreme Court was considering the interpretation of Section 125 CrPC. The Court held: (SCC p. 196, para 13) "13.3. … purposive interpretation needs to be given to the provisions of Section 125 CrPC. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve "social justice" which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society." (emphasis supplied)

113. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all courts, by directing that maintenance be awarded from the date on which the application was made before the court concerned. The right to claim

> maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.' (emphasis supplied by bolding; underlining reflects emphasis supplied in original)'
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> 18. **No doubt, Rajnesh (supra) was pronounced after the Family Court's Order and Impugned Order were passed, but its enunciation of the law would entail that maintenance should be reckoned as awarded from the date of filing of the application in this behalf. Having regard to the totality of the facts and circumstances, we direct the respondent no.2 to pay Rs.4,000/- (Rupees Four Thousand) per month as maintenance to the appellant, from the date of filing of the maintenance petition before the Family Court.** The maintenance awarded to the children will also be payable from the date of filing of the maintenance petition before the Family Court. We take judicial notice that during the pendency of the appeal before this Court, the daughter Aatika has attained majority. Having due regard to the scheme of Section 125 of the Code, it is clarified that the maintenance awarded in her favour will only be payable up to the date of her attaining majority. The entire amount of arrears shall be deposited by the respondent no.2 in the Family Court within four months from today, after adjustment of amount(s), if any, already paid/deposited by him. "
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> (Emphasis Supplied)

12. This Court notes that in ***Shahjahan v. State of Uttar Pradesh*** *(supra)*, the Hon'ble Supreme Court has reaffirmed that although Section 125(2) of Cr.P.C. confers discretion upon the Court to award maintenance either from the date of the order or from the date of the application, such discretion must be exercised in a manner consistent with the beneficial object of the provision. The Hon'ble Supreme Court emphasized that Section 125 of Cr.P.C. is a social welfare legislation intended to protect wives and children from destitution, and that delays in judicial proceedings should not operate to the

disadvantage of the claimant. Relying upon the principles earlier laid down in ***Rajnesh v. Neha*** *(supra)*, the Court held that, in the usual course, maintenance ought to be awarded from the date of filing of the application so as to prevent financial hardship caused by protracted litigation. It was observed that the right to claim maintenance must relate back to the date of institution of proceedings, since the pendency of the case is beyond the control of the applicant. Consequently, it was directed that maintenance be made payable from the date of filing of the petition, including for the children, subject to statutory limitations such as attainment of majority.

13. It is noted by this Court that the petition under Section 125 of Cr.P.C. was instituted by the petitioners on 05.03.2016. The learned Family Court, while allowing interim maintenance, had directed that the same shall be payable with effect from 01.01.2019, observing that the direction was being passed in view of the "peculiar facts" of the case. However, this Court finds that the impugned order does not disclose any clear or cogent reason for postponing the commencement of maintenance by nearly three years from the date of filing of the petition. A discretionary power, though wide, must be exercised on discernible principles and supported by reasons; in the absence of such reasons, the exercise of discretion becomes vulnerable to interference.

14. This Court further observes that Section 125 of Cr.P.C. is a measure of social justice intended to prevent destitution and

vagrancy. The object of the provision is not punitive but protective. Where a wife and minor children approach the Court alleging neglect and refusal to maintain, and the Court ultimately finds them entitled to maintenance, the normal rule – now consistently affirmed by the Hon'ble Supreme Court – is that such maintenance should relate back to the date of the application. The delay in adjudication of maintenance proceedings is ordinarily systemic and cannot be attributed to the dependent spouse or children. To deprive them of maintenance for the interregnum period, without adequate justification, would defeat the very purpose of the legislation.

15. It is though correct that the decision in ***Rajnesh v. Neha*** *(supra)* was rendered after the passing of the Family Court's order in the present case, however, as subsequently clarified in ***Shahjahan v. State of Uttar Pradesh*** *(supra)*, the principles laid down in ***Rajnesh v. Neha*** *(supra)* are declaratory of the legal position and intended to bring uniformity and consistency in maintenance jurisprudence. The Hon'ble Supreme Court has categorically observed that maintenance should ordinarily be awarded from the date of filing of the application, since the pendency of proceedings is not within the control of the claimant.

16. In the facts of the present case, the petitioners – being the wife and two daughters – had asserted that they had no independent source of income and were dependent upon assistance from relatives and friends. The respondent, at the relevant time, was gainfully employed and earning a regular income. Even as per the material before the

Family Court, his net income was assessed at about ₹35,000/- per month, and there is nothing to suggest that during the initial pendency of the petition, he was incapable of contributing towards the maintenance of his family. The record also reflects prolonged litigation between the parties; however, there is no finding that the petitioners were responsible for any deliberate delay so as to disentitle them from maintenance for the earlier period.

17. The contention of the respondent regarding subsequent change in circumstances, including cessation of employment, medical issues, loans, or other liabilities, may be relevant for proceedings under Section 127 of Cr.P.C. for modification of maintenance, but cannot retrospectively justify denial of maintenance for the period during which he admittedly had sufficient earning capacity. Similarly, disputes regarding encashment of FDRs or other financial transactions do not absolve the statutory obligation to maintain the wife and minor children.

18. As regards the quantum of maintenance, this Court notes that the learned Family Court awarded ₹5,500/- per month to each of the three petitioners, aggregating to ₹16,500/- per month. Having regard to the respondent's assessed income at the relevant time and the needs of two growing daughters pursuing education, the said amount cannot be said to be excessive. At the same time, the prayer for substantial enhancement to ₹80,000/- per month appears disproportionate to the income assessed by the Family Court, particularly in the absence of clear material demonstrating

significantly higher earnings. The quantum awarded by the Family Court appears to have been determined on a *prima facie* assessment of income and liabilities and does not call for interference at this stage, save and except in relation to the effective date from which payment of interim maintenance is to be made. Needless to say, the petitioner would be at liberty to file an application under Section 127 of Cr.P.C. before the Family Court, if so advised.

19. In view of the aforesaid discussion, this Court is of the opinion that the learned Family Court erred in directing that interim maintenance shall be payable only with effect from 01.01.2019 without assigning adequate reasons. The petitioners herein are held entitled to interim maintenance from the date of filing of the petition, i.e., 05.03.2016. The impugned order dated 25.09.2019 is accordingly modified to this extent, subject to adjustment of any amounts already paid.

20. In view of the above, the present petition stands disposed of.

21. Nothing expressed hereinunder shall tantamount to an expression on the merits of the case.

22. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

FEBRUARY 27, 2026/
T.S.