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FAMILY LAW

Reaffirming the Right to Maintenance: Allahabad High Court Sets Aside Family Court Order

AUTHOR Nidhi Singh, Aryaveer Khanna

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Introduction

The law governing maintenance under *Section 125 of the Code of Criminal Procedure, 1973* is grounded in the principles of social justice and is aimed at preventing destitution and vagrancy. Despite its welfare-oriented objective, disputes often arise regarding a wife's entitlement to maintenance, the relevance of her educational qualifications, and the effect of matrimonial discord on her right to claim support.

The decision of the Allahabad High Court in ***Smt. Suman Verma v. State of Uttar Pradesh***[1] gains particular importance in this context. The case arose from a criminal revision challenging a Family Court order that denied maintenance to the wife while awarding only a nominal amount to the minor child. The ruling is a thoughtful reaffirmation of established legal principles on maintenance, while also emphasizing the need for a humane and pragmatic approach in adjudicating such claims.

Factual Background

The marriage between the revisionist wife, Smt. Suman Verma, and the opposite party (husband) was solemnised in May 2006 in accordance with Hindu rites and ceremonies. A son was born out of the wedlock, who, at the time of the proceedings, was residing with his mother. The wife alleged that she was subjected to both physical and mental cruelty during the subsistence of the marriage and was eventually forced to leave the matrimonial home along with her child. Although an earlier maintenance dispute had been settled based on the husband's assurance to provide proper support, the relationship once again deteriorated, culminating in her ouster from the matrimonial home in January 2020.

Subsequently, the wife instituted proceedings under Section 125 of the Code of Criminal Procedure, 1973, seeking maintenance for herself and her minor son. She contended that she had no independent source of income and was entirely dependent on her parental family. The husband, however, denied the allegations of cruelty, disputed her claim of financial incapacity, and even questioned the paternity of the child.

Aggrieved by the order dated 3 October 2024 passed by the Additional Principal Judge, Family Court, Bulandshahr, the wife filed a criminal revision. The Family Court had rejected her claim for maintenance on the grounds that she possessed educational qualifications, which she had allegedly concealed, and that she was residing separately without sufficient cause. The Court awarded only ?3,000 per month for the maintenance of the minor son, Master Tilak Verma (aged 15 years). In the present revision, the wife seeks enhancement of maintenance to ?15,000 per month for herself and ?10,000 per month for the upkeep of her son.

Issues

- Whether the findings of the Family Court denying maintenance to the wife, particularly in light of her educational qualifications and alleged ability to maintain herself and the quantum of maintenance awarded to the minor child were legally justified.
- Whether the wife's refusal to resume cohabitation pursuant to proceedings under the Hindu Marriage Act, 1955 would attract the disqualification contemplated under Section 125(4) of the Code of Criminal Procedure, 1973.

Court's Analysis

The High Court, while acknowledging that the Family Court correctly noted the concealment of the wife's educational qualifications, also observed that the husband had made false statements on affidavit by denying the paternity of his own child in an attempt to evade his maintenance obligations. The Court emphasized that there was no evidence to show that the wife was gainfully employed; mere possession of educational qualifications does not establish financial independence. It held that the Family Court had misappreciated the evidence in arriving at its conclusions.

Placing reliance on ***Sunita Kachwaha v. Anil Kachwaha***[2], the Court reiterated that even if a wife has some earning capacity or is earning a modest income, that alone cannot be a ground to deny maintenance. The mere potential to earn, or even limited actual earnings, is insufficient to disentitle a wife from claiming maintenance.

The High Court also criticized the Family Court's insistence on formal criminal complaints as proof of cruelty. It noted that matrimonial cruelty often goes undocumented, and the absence of criminal proceedings cannot by itself negate a claim of ill-treatment. The husband's denial of paternity was viewed as a serious attempt to shirk legal responsibility.

Further, relying on ***Rina Kumari v. Dinesh Kumar Mahto***[3], the Court held that a wife's refusal to resume cohabitation cannot automatically attract disqualification under Section 125(4) of the Code of Criminal Procedure, 1973. Accordingly, the Family Court's reasoning on this ground was rejected.

The Court also found the maintenance awarded to the minor child to be grossly inadequate. Considering the husband's admitted income and the needs of a growing adolescent, the sum of ?3,000 per month was deemed insufficient. It further observed that attempts by the husband to reduce his apparent income through artificial deductions could not defeat the statutory right to maintenance.

Decision and Holding

The High Court held that the impugned order suffered from both legal and factual errors. It concluded that the wife was entitled to maintenance irrespective of her educational qualifications, and that the minor child's right to adequate financial support had been overlooked. Accordingly, the order of the Family Court was set aside, and the matter was remanded for fresh determination of maintenance in accordance with law. The Family Court was directed to pass a reasoned order within a specified timeframe, taking into account the principles laid down by the Supreme Court and the observations of the High Court.

Conclusion

This decision reinforces the welfare-oriented nature of Section 125 of the Code of Criminal Procedure, 1973. It cautions courts against adopting a rigid or overly technical approach in maintenance cases and highlights the importance of considering social realities and lived experiences. By rejecting the misuse of educational qualifications and speculative earning capacity as grounds for denying maintenance, the Allahabad High Court reaffirmed that maintenance is not a matter of discretion or charity, but a legal right arising from the obligations of marriage and parenthood.

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1. CRIMINAL REVISION No. – 5971 of 2024 ??
2. (2014) 16 SCC 715 ??
3. (2025) 3 SCC 33 ??

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