

SUPREME COURT OF INDIA**Bench: Justice Abhay S. Oka and Justice Pankaj Mithal****Date of Decision: September 22, 2023**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2023

(@ SLP (CRL.) NO(S). 10421-10422 OF 2023)

DHIRENDER KUMAR**APPELLANT(S)****VERSUS****BALA & ANR.****RESPONDENT(S)**

Section, Acts, Articles, Rules:

Section 125 of the Code of Criminal Procedure, 1973 (Cr.P.C.)

Subject: Modification of Maintenance Order

Headnotes:

Family Law – Maintenance Section 125 Cr.P.C. - Modification of maintenance order - Appellant challenges the High Court's modification of maintenance granted to the respondent No. 1-wife and son - High Court modified the maintenance order to be payable from the date of filing the application for maintenance - Appellant contends that the maintenance granted is excessive and questions the starting date of payment - Appellant's concealed receipt of compensation amounts revealed during the proceedings - Maintenance ordered

to be payable at different rates and from different dates based on the appellant's income and circumstances - Appeals partly allowed, and modified maintenance orders issued. [Para 3-8]

Referred Cases: None.

Representing Advocates:

For Petitioner(s): Mr. N.K. Mody, Sr. Adv., Mr. Prabuddha Singh Gour, Adv., Mr. Sukhamrit Singh, Adv., Mr. Ishita M. Puranik, Adv., Mr. Suresh Kumar Bhan, Adv., Mr. Ravi Kumar, Adv., Mr. Praveen Swarup, AOR

For Respondent(s): Mr. Rahul Sharma, Adv. Mrs. Jyoti Dutt Sharma, Adv., Mr. Ayush Bhatt, Adv., Mr. Ankit Roy, AOR

ORDER

Leave granted.

2. Heard the learned counsel appearing for the parties.
3. The impugned order arises out of the application filed under Section 125 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C."), filed by the respondent No. 1-wife. The Family Court granted maintenance at the rate of Rs. 25,000/- per month to the respondent No. 1-wife and Rs. 20,000/- per month to the appellant's son Himanshu with effect from 01.12.2018. By the impugned order, the High Court modified the said order by directing that the maintenance at the aforesaid rates shall be payable from the date of filing application for maintenance.

4. The submission of the learned counsel appearing for the appellant is that the maintenance granted is exorbitant. Considering the income of the appellant, which is brought on record. He submitted that, in any case, the maintenance at the rate of Rs. 45,000/- per month could not have been made payable from 13.07.2004 when the application under Section 125 of the Cr.P.C. was filed.
5. While passing the order dated 19.11.2018 fixing total maintenance amount of Rs. 45,000/- per month, the Family Court has held that the son will be entitled to maintenance till he attains majority. This part of the order has not been disturbed by the High Court.
6. Now, the question is that whether the total maintenance amount of Rs. 45,000/- per month was justified and that also from the date of filing of the application.
7. It was brought on record before the High Court that compensation amounts of Rs. 42,20,202/- and Rs. 11,36,861/- have been received by the appellant on account of acquisition of his property. In fact, this fact was brought on record by the respondent No. 1-wife. Pursuant to the order dated 11.09.2023 passed by this Court, an affidavit has been filed by the appellant which discloses that from January, 2003 to 02.06.2012, the appellant received total compensation of Rs. 82,33,531/-. This relevant fact was suppressed by the appellant from the Trial Court as well as from the High Court. This amount was received by the appellant by 02.06.2012. Therefore, the maintenance payable by the appellant from 01.07.2012 has to be at the rate of Rs. 45,000/- per month in terms of the Family Court's order dated 19.11.2018. From the date of filing of application under

Section 125 of Cr.P.C. till 30.06.2022, the total amount payable by the appellant to the respondent No. 1-wife and child shall be at the rate of

Rs. 25,000/- per month.

8. Accordingly, we partly allow the appeals and modify the impugned order as under:-

(i) The appellant shall pay maintenance at the rate of Rs. 25,000/- per month to the respondent No. 1-wife from 01.07.2012;

(ii) The appellant shall pay maintenance at the rate of Rs. 20,000/- per month from 01.07.2012 to son Himanshu till he attains majority;

(iii) The appellant shall pay total maintenance at the rate of Rs. 25,000/- per month to the respondent No. 1-wife and son from the date of filing of application under Section 125 of Cr.P.C. till 30.06.2012;

(iv) The amount of maintenance payable to the son shall be paid to the respondent No. 1-wife;

(v) The arrears as of today in terms of the above directions, shall be paid by the appellant to the respondent No. 1-wife within a period of three months from today; and

(vi) Needless to add that the amounts earlier paid by the appellant including a sum of Rs. 10 lacs paid pursuant to the order dated 11.09.2023 of this Court shall be adjusted against the arrears payable by the appellant.

(vii) No orders as to costs.

*Disclaimer: Always compare with the original copy of judgment from the official website.