



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE GAJENDRA SINGH

ON THE 17th OF APRIL, 2026

CRIMINAL REVISION No. 4744 of 2025

**“H”
Versus
“W” & “S”**

Appearance:

Ms. Sangeeta Choudhary and Shri Yogendra Mehta - Advocate for the petitioners.

Shri Arpit Singh – Advocate for the respondents.

WITH

CRIMINAL REVISION No. 2238 of 2025

**“W” & “S”
Versus
“H”**

Appearance:

Shri Arpit Singh - Advocate for the petitioners.

Ms. Sangeeta Choudhary – Advocate for the respondent.

CRIMINAL REVISION No. 3974 of 2025

**“H”
Versus
“W” & “S”**

Appearance:

Ms. Sangeeta Choudhary and Shri Yogendra Mehta - Advocate for the petitioners.

Shri Arpit Singh – Advocate for the respondents..

**Reserved on : 27.01.2026
Pronounced on : 17.04.2026**



ORDER

Regard being had to the similitude in the controversy involved in these criminal revisions, therefore, these criminal revisions were analogously heard and are being disposed off by this common order.

Maintaining the anonymity of the parties, husband is being mentioned as “H”, wife is being mentioned as “W” and minor son is being mentioned as “S” in all the proceedings.

2. All these criminal revisions originates from the order dated 08.04.2025 by Additional Judge to the Court of Principal Judge, Family Court, Indore in MJCR No/1363/2018, whereby an amount of Rs.7,000/- has been awarded in favor of wife and Rs.3,000/- per month has been awarded in favor of minor son as maintenance under Section 125 of the Cr.P.C., 1973 from the date of order and application filed by the husband to initiate the proceedings under Section 340 of the Cr.P.C., 1973 against the wife has been rejected.

3. Criminal Revision No.2238/2025 has been preferred by the wife and minor son for enhancement of the maintenance to the tune of Rs.75,000/- per month to be payable from the date of application i.e. 29.10.2019.

4. Criminal Revision No.3974/2025 has been preferred by the husband for setting aside the order of maintenance and taking cognizance under Section 340, 195 of the Cr.P.C., 1973 in the light of order dated 02.09.2022 in CRR No.2793/2022.

5. Separate Criminal Revision No.4744/2025 has been preferred to take cognizance under Section 340 and 195 of the Cr.P.C., 1973 in the light of order dated 02.09.2022 passed in CRR No.2793/2022 by setting aside the impugned order dated 08.04.2025.

**FACTS OF THE CASE**

6. The marriage was solemnized on 30.01.2013 at Indore as per Hindu rites and rituals. The respondent No.2 (in CRR No.3974 of 2025) took birth on 10.04.2017. An application under Section 125 of the Cr.P.C., 1973 claiming Rs.50,000/- per month for wife and Rs.25,000/- per month for minor son, thus, a total of Rs.75,000/- per month as maintenance alongwith Rs.30,000/- as cost of the proceedings was preferred on 30.10.2018 alleging various acts of cruelty including demand of dowry, inability to maintain herself and minor son and sufficiency of means of the husband. The means of husband were stated that he is an advocate and earns Rs.1,00,000 per month and he also owns irrigated agricultural land in village Chapda, district Dewas, which has been given on sharecropping and generates an annual income of Rs.7–8 lakhs per annum.

7. The application was opposed by filing the reply with preliminary objections that the application has been filed as a counterblast to the petition for divorce filed under Section 13(1)(ia) of the Hindu Marriage Act, 1955. She has deserted the matrimonial home without having sufficient cause. Application was further opposed on merit on the ground that all the allegations of cruelty including the demand of dowry are baseless. Husband has been bearing all the expenses after marriage. Wife never cooperated in the daily domestic chores and always insisted for separation from the family. When wife left the matrimonial home, then husband served a notice through advocate. An F.I.R. under Section 498-A of the IPC in Ajamgarh (U.P.) on false grounds have been lodged. He borne the expenses incurred during the delivery of son but thereafter, the wife



and her parents were annoyed due to non-celebration of the birthday of a son in a luxurious hotel in a grand manner.

8. It was further raised that the family members of the paternal side of the wife always tried to create a distance between the relationship of husband and wife. Alleged source of income of the husband are false. The maternal side of the wife is prosperous and engaged in various businesses including transport as well as newspaper publication and earns sufficient income from the irrigated agricultural land and maintains vehicles. Due to this case, he is bound to earn the bread and butter through a private job. He is not working as an advocate and his father also retired from the post of teacher and his pension is insufficient to bear the medical expenses. Wife is not performing the matrimonial obligations. She harassed him so as to compel to join the job; she is taking the benefits of her wrongs, therefore, she is not entitled for maintenance. Wife and minor son resides in the home of husband and husband is maintaining them as per his capacity despite the fact that wife is committing the cruelty towards the husband. He never neglected in maintaining the wife and minor son. Since the wife is living in the matrimonial home, they are not entitled for separate maintenance. She is abusing the process of law by lodging a false complaint; she is insulting the old parents of the husband.

9. The trial Court recorded the testimony of wife as (PW-1) and admitted the documents (Ex.P-1 to P-14) for wife and minor son. Husband examined himself as (DW-1) and adduced the documents (Ex.D-1 to D-131).



10. Mediation was conducted between the parties but the mediation was unsuccessful at the stage of hearing on application of interim maintenance.

11. Husband preferred application under Section 340, 195 (Ex.D-5) for taking cognizance against the wife under Section 181, 182, 191, 193, 196, 197, 199, 200, 209 and 211 of the IPC asserting that his source of income are falsely stated in the affidavit of the wife. The husband enrolled himself with the Madhya Pradesh State Bar Council at Sr. No.MP/41/2017. After completing the LLB in 2017, he does not practicing the law and he has not filed a single power in the High Court of M.P. Bench at Indore. The application was filed on 27.07.2019 and the same was pending to be decided at the time of final decision vide order dated 25.06.2022.

11. Appreciating the evidence, the Family Court, Indore allowed the application partially to the extent as mentioned in para 1 of the judgment and application (Ex.D-5) under Section 340 of the Cr.P.C. was also rejected recording the finding in para 39 and 40 of the judgment.

12. Challenging the impugned order, CRR No.2238/2025 is preferred on the ground that the awarded amount of maintenance is not sufficient for the survival and well being of wife and minor son and trial Court has ignored various admissions of husband regarding the income. Principles in **Kalyan Dey Chowdhury vs. Rita Dey Chowdhury reported in (2017) 14 SCC 200** and **Dr. Kulbhusan Kumar vs. Smt. Raj Kumari and Another reported in 1970 (3) SCC 129** have not been followed. The order has been passed from the date of order instead of from the date of application ignoring the



principles in *Rajnesh v. Neha, (2021) 2 SCC 324*. The standard of living, legitimate needs and welfare of the wife and minor child has not been kept in mind particularly in light of the husband's admitted financial capacity and lifestyle.

13. Husband has preferred CRR No.3974/2025 raising the grounds divided in 27 sub-paras of para 2 referring to the cross-examination of the wife and documentary evidence and also referring to *Mamta Jaiswal vs. Rajesh Jaiswal, 2000 SCC OnLine MP 580, Dhiraj Guin vs Mrs. Tanusree Majumder reported 2024 SCC OnLine CAL 11350, Jharna Mandal Vs. Prashant Kumar Mandal order dated 31/03/2023 in FA No.25 of 2010 by High Court of Calcutta, Narendra vs. K Meena (2016) 9 SCC 455*.

14. CRR No.4744 of 2025 has been preferred by the husband on the grounds divided in 17 sub-paras of para 2 and referring to *Rajnesh v. Neha, (2021) 2 SCC 324 order dated 02.09.2022 (Ex.D-41) in CRR No.2793/2022, Dr. Praveen R. vs. Dr. Arpitha* reported in *2016 SCC OnLine KAR 1082, Hon'ble Allhabad High Court, Lucknow Bench in WP No.56/2002 dated 09/01/2003 Syed Nazim Vs. The APJ, Family court and another*.

15. In support of CRR Nos.3974 of 2025 and 4744 of 2025 filed by the husband, they have relied on *Amit Bajpai Vs. State of UP* reported in *2023:AHC:238266, Syed Nazim Husain vs. The Additional Principal Judge Family Court & Another, Baban Singh and Another vs. Jagdish Singh and Ors. reported in AIR 1967 Supreme Court 68, Murray & Co. vs. Ashok KR. Newatia reported in (2000) 2 SCC 367, Re Suo moto proceedings (2001) 5 SCC 289, Priyanka Srivastava and Another vs. State of Uttar Pradesh and Others*



reported in (2015) 6 SCC 287, Dr. Praveen R. vs. Dr. Arpitha reported in NC:2023:KHC:30545, Rakesh Raman vs. Smt. Kavita reported in 2023 INSC 433, Vikas Khanuja vs. Sarita reported in 2024 INSC 517, Shilpashree and another vs. Gurumanjunath and others reported in 2023 KHC 21078, Smt. Shikha vs. Avaneesh Mahodaya passed in CRR No.3028 of 2019, Jharna Mandal vs. Prashant Mandal reported in 2023 Latest Caselaw 2168 Cal, Anju and Anr. Vs. Rinku Dahiya reported in LAWS(DLH)-2023-10-71 and Richa Mumgale vs. Harendra Prasad reported in 2024 SCC OnLine ALL2697.

Heard.

16. Counsel for the wife and minor son has opposed the CRR No.3974/2025 and CRR No.4744/2025 whereas; counsel for the husband has opposed the CRR No.2238/2025.

Perused the record.

First of all this Court considering the CRR No.2238/2025 and CRR No.4744/2025.

17. Looking to the controversies involved in these criminal revisions, this Court is referring the purpose, the object and nature of proceedings under Chapter IX of the Cr.P.C., 1973 presently Chapter X of the BNSS, 2023 under the caption “Order for Maintenance of Wives, Children and Parents”.

18. Section 125 Cr.P.C. occurs in Chapter IX under the caption; “Order for Maintenance of Wives, Children and Parents” is a measure of social justice and special enactment to protect distressed women, children and parents. The proceedings under Chapter IX of the Cr.P.C. are essentially judicial proceedings of a Criminal Court. However, the



proceedings under this Chapter are not punitive. The object is not to punish a person for neglect to maintain those whom he is bound to maintain. The intent of Legislature is to provide only a speedy remedy against starvation for a deserted wife or children or parents by a summary procedure to enforce liability in order to avoid vagrancy. Section 125 Cr.P.C. gives effect to the natural and fundamental duty of a man to maintain his wife, children and parents so long as they are unable to maintain themselves. The Supreme Court, in **Captain Ramesh Chander Kaushal, v. Veena Kaushal, AIR 1978 SC 1807**, has underlined the very object of Section 125 Cr.P.C. and opined that this provision is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15 (3) reinforced by Art. 39 of the Constitution of India. The Apex Court in its landmark decision of **Savitri v. Govind Singh Rawat, AIR 1986 SC 984** held that while passing an order under Chapter IX of the Cr.P.C. asking a person to pay maintenance to his wife, child or parent, as the case may be, the Magistrate is not imposing any punishment on such person for a crime committed by him. Chapter IX of the Cr.P.C. contains a summary remedy for securing some reasonable sum by way of maintenance.

19. So far as nature of the proceedings under Section 125 of Cr.P.C. is concerned, in case of **S.A.L. Narayan Row v. Ishwarlal Bhagwandas, AIR 1965 SC 1818**, the Supreme Court has opined that a remedy of civil nature is one by which a person seeks to enforce by appropriate relief the alleged infringement of his civil rights against another person or the State. Whereas, remedy of criminal nature is one

under which a person can be punished for an offence committed. A criminal proceeding, if carried to its conclusion, may result in the imposition of sentences. The character of the proceedings depends not upon the nature of the tribunal which is invested with authority to grant relief, but upon the nature of the right violated and the appropriate relief which may be claimed. The Supreme Court, in **Shail Kumari Devi v. Krishan Bhagwan Pathak, AIR 2008 SC 3006**, has opined thus;

“Now, having regard to the nature of proceedings, the primary object to secure relief to deserted and destitute wives, discarded and neglected children and disabled and helpless parents and to ensure that no wife, child or parent is left beggared and destitute on the scrap-heap of society so as to be tempted to commit crime or to tempt others to commit crime in regard to them. It was held that the Magistrate had 'implied power' to make such order. The jurisdiction of the Magistrate under Chapter IX is not strictly criminal in nature.”

20. In **Rina Kumari @ Rina Devi @ Reena v. Dinesh Kumar Mahto & Ors., 2025 INSC 55**, it has been held as under:-

“30..... maintenance proceedings are essentially civil in nature and the reason for inclusion of the provisions dealing therewith in the Code of Criminal Procedure was clarified by the Law Commission of India in September, 1969. Significantly, as long back as in the year 1963, in *Mst. Jagir Kaur and another vs. Jaswant Singh*, a 3-Judge Bench of this Court held that proceedings under Section 488 of the Code of Criminal Procedure, 1898, the precursor to Section 125 Cr.P.C., are in the nature of civil proceedings; the remedy, being a summary one; and the person seeking that remedy, ordinarily being a helpless person. Therefore, even if non-compliance with an order for payment of maintenance entails penal consequences, as may other decrees of a Civil Court, such proceedings would not qualify as or become criminal proceedings. Nomenclature of maintenance proceedings initiated under the Code of Criminal Procedure, as those provisions find place therein, cannot be held to be conclusive as to the nature of such proceedings.”

21. Similarly in **Dwarika Prasad Satpathy vs. Bidyut Prava Dixit, (1997) 7 SCC 675**, the Apex Court has stated as under:-

“Unlike matrimonial proceedings where strict proof of marriage is essential, in the proceedings under Section 125 Cr.P.C., such strict



standard proof is not necessary as it is summary in nature meant to prevent vagrancy“.

22. Now come to the question where that husband has been acquitted from the prosecution lodged against him under Section 498-A of the IPC then that by itself meant that wife or child residing with wife are disqualified for maintenance.

23. For maintenance, the wife and minor child have to prove only that they are unable to maintain themselves and person against whom the application has been preferred have sufficient means and he neglects or refuses to maintain and nothing more is to be proved by the applicants and for that purpose, no strict standard proof is required as proceedings under Section 125 of the Cr.P.C. are summary in nature meant to prevent vagrancy as stated above in *Dwarika Prasad (supra)*.

24. There is no exception available to the father if above facts are proved, the only exception is available to the husband as mentioned in Section 125(4) of the Cr.P.C, 1973, presently under Section 144(4) of BNSS, 2023 which is being reproduced as below:-

“No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent”

25. The above provision of Section 125(4) of Cr.P.C. and Section 144(4) of the BNSS does not envisages that acquittal of husband from criminal proceedings lodged on the report of the wife would provide any exception to deny the maintenance to the wife or minor child. The only effect may be that he may put the acquittal only for the purpose that he is not neglecting or refusing the wife to maintain. Therefore,



the plea of acquittal from criminal prosecution under Section 498-A in itself is not a ground to deny the maintenance to the wife or minor children if it is proved that they are unable to maintain themselves and husband is having sufficient means and neglects of maintenance.

26. Appreciating the evidence in this case, trial Court recorded the finding in para 29 of the impugned order that wife is residing at the house of husband but in a separate portion and the factum of separate residence at the house of husband is due to the cruelty committed by the husband. It is also the fact that the wife had lodged a report of dowry against the husband and after compromise they lived together but further dispute arose and due to this wife is bound to live separately in the same house, accordingly, wife is justified in living in a separate portion of the husband's house. Trial Court further recorded the finding in para 36 that husband is getting a salary of Rs.65,790/- per month by working with Matram Company and wife has no definite and independent source of income and further recorded a finding that husband is legally and morally bound to maintain the wife and minor son and awarded the amount.

27. Husband has assailed the findings recorded by Family Court, Indore referring to para 13 and 14 of the husband examined as DW-1 on 07.12.2024, photographs Ex.D-14 to 16, 21, 35 to 37, 43, 44 taken from the CCTV footage installed in matrimonial home, para 60 of cross-examination of wife examined as PW-1, para 27, para 65 and para 48 of D-63 – cross examination of wife of previous statement of wife in divorce proceedings and para 52, 53, 85 in HMA 1094/2018 filed by the husband, para 61, 94, photographs D-48, D-47 facebook friend request, previous statement recorded in matrimonial



proceedings (Ex.D-63). Para 54 and 55 of cross examination of wife examined as PW-1 alongwith photographs (Ex. D-14, 15, 16, 35, 36, 37, 43 and 44). Audio of Folder B in Article A/2 filed in divorce case. Non consideration of Ex.D-31 and D-50-63. Non consideration of (Ex.D-1-131), non consideration of admissions of the wife examined as PW-1 in para 54 and 55 alongwith photographs (Ex.D-14, 15, 16, 35, 36, 37, 43 and 44). Non consideration of findings of judgment of acquittal against the husband and findings recorded in para 29 and 30 of the judgment ignoring the documents (Ex.D-8, 9, 10, 11, 12-20, 21 to 23, 55 to 62) ignoring the para 34 of the cross-examination of wife examined as PW-1 regarding her Enrolment No.3113/2023 at Bar Council of Madhya Pradesh and in para 53 her statement where she admitted that she and “H” both are law graduates. Para 38, 41 and 42 of cross examination of the wife regarding bank balance and FDR of Rupees One Lac.

28. Wife’s parental immovable property of Khasra No.233 and 477 comprising area of 0.777 and 0.038 hectares respectively in the sole name of her father Shri Jagarnath/ Ramugrah and Khasra No.516 of 0.596 in the jointname of her father shri Jagarnath/Ramugrah with two other persons (Total=0.777+0.038+0.199=1.014 Hectares) and the clear share of wife but non disclosure in the affidavit in violation of ***Rajnesh (Supra)*** is also raised. Non consideration of bearing the expenses of the birthday party of the son and bearing other expenses, non consideration of the ailments of the parents of the husband especially (Ex.D-71 to 74) belonging to the mother and (Ex.D-77 to 131) belonging to the father and D-76 disability certificate of the father and old age factor of grandmother/ Nani residing with him are



also raised. It is also raised that the husband is not having clear title of any agricultural land. The pension to the tune of Rs.40,000/- of the father of the husband is not sufficient to bear the medical expenses and maintenance of father, mother and maternal grand-mother and also the fact that EMI of home loan is being paid. The responsibilities of child by both the parents have not been taken into consideration.

Now come to the inability of wife and child to maintain themselves

29. First limb of arguments is that wife is an advocate enrolled with M.P. State Bar Council carrying Registration No.xxxx/2023. The application was preferred on 30.10.2018 and it discloses that at the time of filing the application she was not enrolled with the M.P. State Bar Council. There is no document on record that wife have represented independently and making income from the profession. Recent enrollment with the State Bar Council is not sufficient to infer that wife is earning sufficient to maintain herself as well as the minor child. The similar issue has been considered by the High Court of Gujarat in **A vs. State of Gujarat, Neutral Citation:2026:GUJHC:24635**. Otherwise also it has been held that later on, if it is proved that wife has started sufficient income then it shall always be open for the husband to file appropriate application under Section 127 of the Cr.P.C., 1973 (presently under Section 146 of the BNSS, 2023) before the concerned Court for modification or alteration in the amount of maintenance, if required.

30. Now the second limb of argument is that wife has clear share in the immovable property recorded in the name of her father. The above mentioned property of Khasra No.233 and 477, a total 1.014 hectare



has not been received by the wife separately, therefore, this argument also does not survive. Accordingly, the findings of the trial Court are not perverse in recording the finding that wife and minor child are unable to maintain themselves.

Now come to the sufficiency of means of husband and neglect or denial of maintenance of wife and child

31. The trial Court has recorded the finding that husband is getting a salary of Rs. 65,790/- by working with Matram Company and it is not the case that the husband that is not working with the Matram Company or he is not getting the per month salary. Challenge to each proceeding indicates that husband is neglecting or denying the maintenance.

Now come to the availability of exception mentioned in Section 125(4) of Cr.PC. or Section 144(4) of the BNSS, 2023.

32. Here is not a case that wife is living in adultery and this is also not the case that they are living separately by mutual consent.

33. In this case, the wife is living in the husband's house but in a separate room. She has provided detailed reasons for living separately, whereas the husband has taken multiple excuses and has even objected to her residing in the house. Initially, the husband claimed that the wife was depriving him of conjugal rights; however, when the wife secured evidence, he changed his stand and alleged that he was a victim of a honey trapping and that his privacy was being violated. Therefore, if the wife was not desirous of living with the husband, it is unclear why she chose to reside in a small portion of his house, why she attempted to maintain a physical relationship with him, and why she chose to give birth to a child. Accordingly, the requirement that



the wife has refused to live with the husband is not satisfied. Perusal of Ex.D-34-C reveals that the judgment of acquittal in Criminal Case No.2831/2015 by Additional Chief Judicial Magistrate, Azamgarh is based on the fact that the wife and parents turned hostile. Explanation of the wife is proper that this was due to the compromise. Accordingly, this acquittal does not grant any benefit to the husband.

Now come to the other objections.

34. If minor members of the wife's maternal family visit her residence, such visits cannot be equated with permitting outsiders, such as friends or even her mother, to stay continuously in the house so as to cause mental cruelty to the husband or to provide a ground for divorce, as contemplated in ***Mr. Dhiraj Guin (supra)***. The wife is also entitled to sufficient and dignified living space, and she cannot be treated as a chattel or as a mere doll expected to act strictly within the limits drawn by the husband. Therefore, reliance on ***Mr. Dhiraj Guin (supra)*** in such circumstances is misplaced and cannot succeed.

35. On the contrary, husband is the only son of the parents and is adopting the tactics of relinquish his rights in the house in which the wife is residing, nothing less can be inferred. The purpose is only to defeat the claim of residence of wife which is in the name of the husband. Accordingly, on the strength of ***Mr. Dhiraj Guin (supra)***, ***Rajnish (supra)***, ***Amit (supra)***, ***Re suo moto (supra)***, ***Dr. Praveen R.(supra)***, ***Priyanka Shrivastava (supra)***, ***Baban Singh (supra)*** and ***Murray and Co. (supra)***, the objection of the husband regarding the grant of maintenance does not succeed and the ***CRR No.4744 of 2025*** have no substance and is hereby ***dismissed***.

Now come to the CRR No.2238 of 2025 filed by the wife.



36. Even if we treat the findings of the trial Court as it is and apply the principle in *Kalyan Dey (supra)* they are entitled for 25%. The needs of a growing child cannot be ignored, especially in a city like Indore where educational expenses are comparatively high and son is taking education. Accordingly, the maintenance for the child is enhanced from Rs. 3,000/- to Rs. 9,000/- per month. However, the case of the wife for further enhancement is not made out. So far as the commencement of maintenance is concerned, the Trial Court granted maintenance from the date of the order, which is contrary to the dictum laid down in *Rajnish (supra)*. Therefore, the maintenance ought to have been awarded from the date of filing of the application rather than from the date of the order. Accordingly, Rs. 9,000/- per month is awarded in favour of the minor child and Rs. 7,000/- per month to the wife (totaling Rs. 16,000/- per month), payable from the date of filing of the application.

37. One point has been argued that the responsibility of the minor child should be equally borne by the mother and father, therefore, this argument would have force if the husband is bearing the responsibilities of the minor child. Taking care of the minor child is a full time job in itself and if quantified in the money then it will not be less than Rs.9,000/- per month as ordered to be paid to the minor child.

38. The responsibilities towards parents do not disentitle the wife and minor child from maintenance. If the pension to the tune of Rs.40,000/- is not sufficient for their survival then the amount of Rs.16,000/- per month cannot said to be excessive for wife and



growing needs of the minor child. Accordingly, CRR No. 2238 of 2025 is partly allowed.

Now come to the CRR No.3974 of 2025.

39. Before proceeded further, this Court is referring to Section 340 and 341 of the Cr.P.C., 1973 which is being reproduced as below:-

340. Procedure in cases mentioned in Section 195.

(1)When upon an application made to it in this behalf or otherwise any Court is of opinion that it is expedient in the interest of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, -(a) record a finding to that effect; (b)make a complaint thereof in writing; (c) send it to a Magistrate of the first class having jurisdiction; (d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such magistrate; and (e) bind over any person to appear and give evidence before such Magistrate.

(2)The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of Section 195.

(3)A complaint made under this section shall be signed, -

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b)in any other case, by the presiding officer of the Court[or by such officer of the Court as the Court may authorise in writing in this behalf

(4)In this section, "Court" has the same meaning as in Section 195.

341. Appeal.

(1)Any person on whose application any Court other than a High Court has refused to make a complaint under sub-section (1) or sub-section (2) of Section 340, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of Section 195, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint, or, as the case may be, making of the complaint which such former Court might have made under Section 340, and if it makes such complaint, the provisions of that section shall apply accordingly.



(2)An order under this section, and subject to any such order, an order under Section 340, shall be final, and shall not be subject to revision.

40. The above provisions disclose that the remedy against the order under Section 340 of the Cr.P.C. is filing the appeal under Section 341 of the Cr.P.C. This Court is not going to the technicalities and is deciding this CRR No.3974 of 2025 treating it as an appeal.

41. The Constitution Bench of Supreme Court, while explaining the scope of aforesaid provision, in case of **Iqbal Singh Marwah v. Meenakshi Marwah, reported in (2005) 4 SCC 370**, observed as under-

23. In view of the language used in Section 340 CrPC the court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the section is conditioned by the words “court is of opinion that it is expedient in the interests of justice”. This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(1)(b). This expediency will normally be judged by the court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, has to be discarded.

33. In view of the discussion made above, we are of the opinion that Sachida Nand Singh [(1998) 2 SCC 493 : 1998 SCC (Cri) 660] has been correctly decided and the view taken therein is the correct view. Section 195(1)(b)(ii) CrPC would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a



proceeding in any court i.e. during the time when the document was in custodia legis.

42. When we apply the above standard then the reasons assigned by the learned Principal Judge, Family Court are appropriate and based on material on record no substantial injury or prejudice would be caused to the petitioner from the stray and innocuous omission regarding the facts stated to be deliberately false by the husband. Otherwise also, in a proceedings under Section 125 of the Cr.P.C., the wife rests its claim regarding the sources of the income of the husband on the basis of information received from the husband. From these averments, she only seeks the maintenance for survival for herself and minor child.

43. One aspect is important that husband himself got enrolled with the M.P. State Bar Council at Sr. No.xx/2017 and he started the job with Matram Company and there is nothing on record that he intimated the State Bar Council of M.P. regarding his full time employment or he got suspension of his enrollment from the Bar Council of M.P. but he exhausted all his energy in leveling the allegations against the wife. Accordingly, the findings of the trial Court are appropriate and there is no illegality committed by the trial Court in recording the findings in para 39 and 40 of the judgment and forming the opinion that it is not expedient in the interest of justice that an inquiry should be made into the allegations of the husband leveled through application Ex.D-5.

44. Ex.D-52 discloses that the house loan of Rs.16,52,678/- was disbursed on 30.04.2024, this reveals that the liability has been taken by the husband knowing all the responsibilities. The decision of



taking the home loan is of husband, he is the only son of parents, it appears that it is nothing but a devise to frustrate the claim of maintenance and it does not defeat the claim of wife and minor son.

45. With the aforesaid, *CRR No.4744/2025 and CRR No.3974/2025* are *dismissed* and *CRR No.2238/2025* is *partly allowed*.

46. Let a copy of this order be sent to the learned trial Court concerned for information and necessary compliance.

47. Let a signed copy of this order be retained in CRR No.4744/2025 and photocopy of the same be kept in the record of connected revisions.

(GAJENDRA SINGH)
JUDGE

Vatan