



daughters till they attain majority, become financially independent or gets married.

2. *Briefly put*, marriage between the petitioner and respondent no.1 was solemnized on 12.06.2006 at Siwan, Bihar as per Hindu rites and customs. Thereafter, two daughters i.e., respondent nos.2 and 3 were born out of the said wedlock. With passage of time, their matrimonial relationship turned sour, which as per respondent no.1, resulted in her returning to her parental home along with respondent nos.2 and 3.

3. Subsequently, in an application under *Section 125* of the Code of Criminal Procedure, 1973 (*Cr.P.C.*) before the learned Family Court, the respondents sought maintenance. This culminated in passing of the impugned judgment dated 05.10.2024.

4. Mr. Vijay Kinger, learned counsel for the petitioner submitted that the impugned judgment is solely based on conjectures and surmises as nothing filed by him has been appreciated. The learned counsel submitted that the respondent no.1 had voluntarily/ willingly withdrawn from the company of the petitioner without any justified cause/ reason, even though the petitioner tried reconciling the differences with her. The learned counsel also submitted that the petitioner was working on a contract basis without any regular source of income and was, *therefore*, not in a position to pay the maintenance to the respondents. The learned counsel then submitted that the petitioner has suffered/ suffering from various health issues, including tuberculosis, diabetes, and heart problems and is also taking care of his elderly dependent mother and paying off loans.

5. Lastly, Mr. Vijay Kinger, learned counsel submitted that the respondent no.1 is a well-qualified educated women having bachelor



degree in commerce, who is capable of maintaining herself, however, only with the intent to harass the petitioner, she has filed *Section 125 Cr.P.C.* proceedings. In fact, in her cross examination, the respondent no.1 herself admitted that previously she was working with Delhi Polymers Pvt. Ltd., which was intentionally not mentioned in her income affidavit.

6. *Per contra*, Mr. Gurinder Pal Singh, learned counsel for the respondents supporting the impugned judgment submitted that the impugned judgment is a well-reasoned one which has been passed after taking into consideration all the materials before the learned Family Court. The same, thus, suffers from no illegality or infirmity requiring inference from this Court, much less in a revisional jurisdiction. The learned counsel further submitted that the petitioner's claims about illness, financial trouble, loan obligations, and responsibilities towards his mother were never mentioned before the learned Family Court and, therefore, these claims cannot be permitted to be agitated for the first time in this revision petition.

7. This Court has heard learned counsel for the parties and gone through the documents and pleadings on record.

8. At the outset, relying upon the trite law as per *Amit Kapoor vs. Ramesh Chander & Anr.*¹ and *Pyla Mutyalamma vs. Pyla Suri Demudu*², this Court reiterates that the scope of interference in a revisional jurisdiction, in the impugned judgment herein is extremely limited. For this, the petitioner ought to be able to make out a case and/ or show that there is some perverseness and/ or illegality therein, and which actually

¹ (2012) 9 SCC 460

² (2011) 12 SCC 189



requires interference so as to set aside the same. Unless, the petitioner is able to show the same, this Court cannot speculate and/ or form an opinion which is contrary to what has been held by the learned Family Court. All the more, since this Court finds that the findings rendered by the learned Family Court are indeed based on the facts before it and that it is a plausible interpretation therefrom.

9. The petitioner is well aware that this is not an appeal. Therefore, under the garb of the present revision petition, the petitioner can neither reagitate the same issues, which this Court finds, have already been duly referred to and thence negated by the learned Family Court nor seek to agitate new facts which were never before the learned Family Court. This Court cannot lose sight of the factum that for raising fresh issues, the petitioner has to take recourse to appropriate remedies as available to him under law by filing a fresh petition under *Section 127* of the CrPC before the very same Court which has passed the impugned judgment based on the *change of circumstances*. In the present case, the petitioner has already availed of that remedy. However, though the present petition can also be maintainable under a different set of facts and circumstances, particularly, if he is able to show/ establish the difference *inter se* the two. Since the petitioner herein has been unable to show something of that sort, he cannot be allowed to seek leniency of this Court, and that too in a revisional jurisdiction.

10. This Court finds that the petitioner has been unable to raise any issue(s) which require any interference and/ or calls for this Court to set aside or increase/ decrease the quantum of maintenance granted by the learned Family Court.



11. Be that as it may, on merits also, the records reveal that the petitioner failed to discharge his burden of proving that the respondent no.1 was capable of maintaining/ supporting herself and the two daughters residing with her. The case of the petitioner was based on bald assertions without any supporting document(s)/ evidence(s) thereto. As held by the Hon'ble Supreme Court in *Bhuvan Mohan Singh v. Meena : (2015) 6 SCC 353* and *Anju Garg v. Deepak Kumar Garg, 2022 SCC OnLine SC 1314*, the husband cannot escape from his liability to maintain his wife or children inasmuch as it is the legal and ethical duty of the husband to maintain them. It is the sacrosanct duty of the husband to provide financial support to the wife and minor children, even by doing physical labour, and could not avoid his obligation. Therefore, the argument canvassed by the petitioner that he is unable to pay the maintenance on the ground that he has no regular source of income and, therefore, not in a position to pay the maintenance, is not acceptable.

12. In the present proceedings, the past employment of respondent no.1 was not itself sufficient to draw a link with the present before the learned Family Court. Even otherwise, though the petitioner has sought to contend in his evidence affidavit dated 13.04.2023 and in the affidavit of asset, income and expenditure dated 02.11.2022 that "... ..since April 2022, working as a contractor (like Lala ki Dukaan Par Kaam) of dying the clothes... .." and his "... ..income was as per the bulk of work... .." and further deposed that he is "... ..unemployed at this time on account of closer of factory, in Haryana (Panipat) due to rapid increase in pollution... ..", however, it is an admitted position that the petitioner himself has stated in *paragraph 17* of his written statement that he is a *person with*



technical expertise and as per the salary slips placed on record [**Ex.RW1/1(colly)**] for the period of February 2021 to April 2021, he was drawing a gross monthly salary of approximately Rs.40,000/-. Further, in his cross-examination, the petitioner has admitted that he was working in different organizations from time to time wherein he was earning much more than that on more than once occasion. His own bank account statements reflected repeated credit entries, including latest credit of Rs.59,975/- from Abhi Homes, on 10.03.2022.

13. Further, a perusal of the record also reveals that the petitioner had himself *admittedly* agreed to pay maintenance of Rs.25,000/- and Rs.30,000/- respectively to the respondents in two mediation settlements way back on 09.02.2016 and 12.10.2020, as also that he was offered employment wherein salary between Rs.80,000/- to Rs.1,00,000/- [**Ex.PW1/7(colly)**] was offered to him.

14. *Lastly*, insofar as the quantum of maintenance of Rs.11,000/- per month awarded to each of the respondent is concerned, this Court finds the same to be broadly in consonance with the principle laid by this Court in **Annurita Vohra v. Sandeep Vohra : 2004 SCC OnLine Del 192**, wherein it has been held that the Court should first ascertain the net disposable income of the Husband/ primary earner of the family and, where the other spouse is also earning, such income is likewise required to be taken into account. This collective income forms the '*Family Resource Cake*', which is thereafter equitably distributed among the family members by dividing the same into two portions for the husband, and one portion each for the other members.



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15. The petitioner is estopped from reopening his case *de novo* and seek to reagitate the very same facts and grounds before this Court once again. Moreover, this being a revision petition, there is no occasion for this Court to go into the evidence recorded therein before the learned Family Court, particularly, since the petitioner has been unable to make out a case in his favour.

16. In view of the afore-going, and particularly since the petitioner has not been able to point out any perversity/ illegality/ irregularity/ patent error/ perversity/ arbitrariness in the impugned judgment dated 05.10.2024 passed by the learned Family Court, that too in a petition of the present nature wherein the scope of interference by this Court itself is limited, this Court does not see any reason to interfere with the impugned order.

17. Accordingly, the present petition along with the pending applications, is dismissed.

SAURABH BANERJEE, J.

MAY 20, 2026/So/GA