IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
Cr. Rev (FC) No.28 of 2026
Decided on 07th October 2026

Deepak Jaswal

…Petitioner

Vs.

Smt. Neha Thakur and another

…Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Hon'ble Mr. Justice Romesh Verma, Judge

[1]Whether approved for reporting? Yes

For the petitioner	**:**	**M/s Subodh Bhatia and Pranav Sharma, Advocates.**
For the respondents	**:**	**Ms. Shrutika, Advocate.**

Ajay Mohan Goel, Judge *(Oral)*

By way of this petition, the petitioner has, *inter alia*, prayed for the following relief:-

> *"In view of the submissions made in paras supra, it is most respectfully prayed that the present petition may kindly be allowed and the impugned judgment dated 30.01.2026 passed by the learned Additional Principal Judge-II, Family Court, Una in Petition No.75/2019 may kindly be quashed and set aside or suitably modified by reducing the quantum of maintenance and by setting aside the direction to pay maintenance and by setting aside the direction to pay maintenance from the date of petition and justice be done."*

2. The petitioner is aggrieved by the order passed by the learned Additional Principal Judge-II, Family Court, Una, in case No.75 of 2019, titled *Neha Thakur and another versus*

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Deepak Jaswal, decided on 30.01.2026, in terms whereof, the petition preferred by the present respondents under Section 125 of the Criminal Procedure Code has been allowed by the learned Court below in the following terms:-

> *"In view of my findings returned on aforesaid points, the present petition is partly allowed and respondent is directed to pay monthly maintenance amounting to Rs.10,000/- to the petitioner No.1 and Rs.10,000/- per month to petitioner No.2 from the date of filing of the petition i.e. 05.09.2019. Memo of costs be prepared accordingly. Copy of this order be supplied to the applicant free of cost."*

3. Learned counsel for the petitioner submitted that the impugned order is not sustainable in the eyes of law as the learned Court below has erred in not appreciating that the respondents herein did not approach the Court with clean hands and had suppressed a material fact that the wife was earning when the petition was filed. He submitted that it was averred in the petition that she was a housewife and was residing with her parents, whereas, at the relevant time, she was serving as a staff nurse. Learned counsel also submitted that the impugned order is not sustainable in the eyes of law as the learned Court below erred in not appreciating that as the petitioner stood retired and had to take care of his parents and

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had other liabilities, he cannot pay maintenance as ordered. Learned counsel further submitted that the impugned order is perverse as learned Court below erred in granting the maintenance from the date of filing of the petition, rather than, the date of the order. On these counts, learned counsel submitted that the impugned order be set aside. No other point was urged.

4. On the other hand, learned counsel for the respondents submitted that there was neither any concealment of facts in the application filed under Section 125 of the Criminal Procedure Code nor the impugned order suffers from any infirmity or perversity. She submitted that it is settled law that maintenance has to be granted as from the date of filing of the application and considering the financial capacity of the present petitioner, the compensation which has been awarded by the learned Court below cannot be said to be on the higher side. She further submitted that the wife served as a staff nurse for about a year during which period she was earning a salary of Rs.12,000-13,000/-, but thereafter she was unemployed. She further submitted that the minor son of the parties is about 7

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years old and is residing with her and the compensation granted by the learned Court below is just enough to make two ends meet, of the mother and child. Learned counsel for the respondents also argued that in exercise of its revisional jurisdiction, this Court is not to act as an Appellate Court and can only interfere if there is a grave perversity in the impugned order. She submitted that the petitioner had failed to point out any perversity on the face of it, as the findings returned by the learned Court below were duly borne out from the record of the case, therefore, this Court cannot substitute its view for the one taken by the learned Court below. Accordingly, she submitted that as there is no merit in the present petition, the same be dismissed.

5. We have heard learned counsel for the parties and have also carefully gone through the order under challenge as well as other documents appended with the petition.

6. The grievance of the petitioner before this Court primarily is that the learned Court below erred in not appreciating that the wife was not a housewife and was earning income being employed as a Staff Nurse. Further grievance of

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the petitioner is that the learned Court below has erred in not appreciating that the petitioner had since retired and the learned Court had awarded maintenance as from the date of filing of the application.

7. We will be dealing with the last issue first.

8. In terms of the judgment of the Hon'ble Supreme Court in *Rajnesh versus Neha, (2021) 2 SCC 324*, the maintenance to be awarded by the Court in a petition filed under Section 125 of the Criminal Procedure Code, has to be from the date of the filing of the petition. In light of this fact, as this is settled law by the Hon'ble Supreme Court of India, which is binding upon all under Article 141 of the Constitution of India, we are of the considered view that there is no merit in the said contention of the petitioner. Relevant paras of the said judgment are quoted hereinbelow:-

> *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*

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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.

In Shail Kumari Devi and Ors. v. Krishnan Bhagwan Pathak[68], 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[69], 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.

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 dependant spouse hampers 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 concerned Court.

In Badshah v. Urmila Badshah Godse[70], the Supreme Court was considering the interpretation of Section 125 Code of Criminal Procedure. The Court held: (SCC p.196, para 13)

"13.3. ...purposive interpretation needs to be given to the provisions of Section 125 Code of Criminal Procedure 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 the social justice. While giving

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interpretation to a particular provision, the court is supposed to bridge the gap between the law and society."

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 concerned Court. 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.

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."

9. Thereafter, this principle has been followed in 2025 SCC Online SC 1342, which read as under:-

"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:

'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

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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.

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:

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(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)

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

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> *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."*

10. Now coming to the issue of the wife not approaching the Court with clean hands, a perusal of the order under challenge demonstrates that this aspect of the matter has been taken into consideration by the learned Court below while passing the impugned order. Learned Court took note of fact that, whereas, the husband was serving in the Indian Navy and his monthly salary was about Rs. 70,000/- per month, the wife who was serving at the time of her marriage as a staff nurse in Fortis Hospital, Chandigarh on a monthly salary of Rs.12,000/- to 13,000/- continued her job for about three to four months after her marriage and thereafter, she gave it up. Learned Court also held that the husband was not able to prove by leading any cogent, clear and convincing evidence that after three to four months of marriage or as on the day of filing of the

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petition under Section 125 of the Criminal Procedure Code, the wife indeed was serving as a staff nurse or was serving in some other capacity and was having a source of income.

11. During the hearing of this petition, learned counsel for the petitioner could not demonstrate that the findings returned by the learned Court below in the impugned order to this effect were perverse and not borne out from the record of the case. Even, as far as the statement of RW-3, Shri Sham Lal, Superintendent, BMO Office, Thana Kalan, Tehsil Bangana, is concerned, the statement was recorded on 10.06.2025, in terms whereof, he stated that Neha Thakur had joined as a staff nurse at CHC Thana Kalan on 15.03.2025 and her salary was Rs.12,185/- in hand and total salary of her was Rs.20,058/-. In his cross-examination, he stated that Neha Thakur was neither an employee of the State Government nor the State had appointed her and that she was engaged by a company on a one-year contract.

12. Be that as it may, the salary slips of respondent Neha Thakur were not exhibited before the learned Court below in accordance with law. Otherwise also, the application under

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Section 125 of the Code of Criminal Procedure for grant of maintenance was filed in the year 2019. Therefore, as it could not be proved before us that when the application under Section 125 was filed by the applicants, there was any concealment of fact by the applicants before the learned Court below, no benefit of the statement of RW-3 can be given to the present petitioner, more so in light of the fact that the alleged income of the wife was not proved before the learned Court below in accordance with law. Therefore, as the petitioner has not been able to substantiate that the wife had not approached the Court with clean hands or there was any concealment of material fact, this contention of the petitioner is also rejected.

13. Now, coming to the contention of the petitioner qua his retirement from the Indian Navy, a perusal of the petition demonstrates that in terms of the affidavit which has been filed in support of this petition, the age of the petitioner is 34 years. The petition has been filed in the year 2026. Therefore, it is not a case where the petitioner has superannuated either on attaining the age of 58 years or 60 years, which is normal age of retirement while serving against a Civil Post, but, it appears

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that because the petitioner was serving in the Indian Navy, probably after putting in the requisite number of years which render a cadet or a sailor entitled to receive pension, he must have left the service.

14. Be that as it may, fact of the matter still remains that the petitioner, who is just 34 years old, is having a source of income in terms of the pension that he is getting from his erstwhile employer. The petitioner must have also received other emoluments from his erstwhile employer after his retirement.

15. In light of this fact coupled with the fact, that the petitioner in his capacity as the husband and father of respondent No.1 and No.2 respectively, is both under a moral and a legal obligation to maintain his wife and his minor son, we do not concur with the submissions of the learned counsel that because the petitioner has now retired, therefore, learned Court should not have ordered maintenance as has been done in terms of the impugned order.

16. We further concur with the submissions made by the learned counsel for the respondents that in exercise of its

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revisional jurisdiction, this Court is not to act as an Appellate Court and re-appreciate the evidence.

17. As we have already observed hereinabove, the findings returned in the impugned order are clearly borne out from the record of the case and no element of perversity could be demonstrated before us by the learned counsel for the petitioner, we do not find any merit in the present petition and the same is accordingly dismissed.

18. With these observations, the petition stands disposed of, so also pending miscellaneous applications, if any.

(Ajay Mohan Goel)
Judge

(Romesh Verma)
Judge

October 07, 2026
(Vinod)

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