IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision (FC) No.42 of 2024
Date of Decision: 30.09.2026

Dinesh Kumar .....**Petitioner**

Versus

Sapna Devi & Anr. .....**Respondent**

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge
Hon'ble Mr. Justice Yogesh Jaswal, Judge

Whether approved for reporting?

For the petitioner: Mr. Jeevan Kumar, Advocate.

For the respondent: Ms. Anjli Soni Verma, Advocate.

Ajay Mohan Goel, J. *(Oral)*

Heard.

2. By way of this petition, the petitioner (husband) has challenged the order dated 28.03.2024, passed by the Court of learned Principal Judge, Family Court, Palampur at Dharamshala, District Kangra, in case Registration. No.1 of 2016, titled Sapna Devi & another versus Dinesh Kumar, in terms whereof, in a petition filed by the respondent (wife) under Section 125 of the Criminal Procedure Code, the learned Court below has granted maintenance to the tune of Rs.3000/- per month in favour of wife and Rs.6000/- in favour of minor child.

3. Learned counsel for the petitioner argued that the order under challenge is perverse and not sustainable in the eyes of law. He submitted that in light of the fact that the wife is earning Rs.63,000/- per month as a Lecturer in a

High Court of HP

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Government College, the amount of maintenance awarded in her favour by the learned Court below is not sustainable. He further argued that the petitioner on the other hand has no source of income, as he presently is unemployed and therefore also, the impugned order is wrong. He submitted that in terms of the provisions under Section 125 of the Criminal Procedure Code, the wife can seek maintenance provided in case she is not in a position to maintain herself, but as the wife was having sufficient means, this important aspect of the matter stood ignored by the learned Court below while passing the impugned order. No other point was raised.

4. On the other hand, learned counsel for the respondent submitted that there is no perversity in the order under challenge and the learned Court below infact has been generous in favour of the present petitioner by awarding only an amount of Rs.3000/-per month in favour of the wife. She argued that though the wife is earning, but fact of the matter is that the petitioner, in his capacity as the husband of respondent No.1 and father of respondent No.2, owes legal as well as moral responsibility to look after them. She argued that the petitioner was serving as a Sale Executive in one Magma Finance Corporation Ltd. and was earning between Rs.35,000/- to Rs. 40,000/- per month and this clearly demonstrated that he had the capacity to pay. Accordingly, she submitted that there was nothing wrong in the impugned order.

5. Learned counsel for the respondents also argued that it is settled law that because the wife is an earning hand, this does not absolve the husband from paying maintenance to her. On these grounds, she submitted that the present petition be dismissed.

High Court of H.P.

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6. We have heard learned counsel for the parties and have also carefully gone through the order under challenge. It is not in dispute that the wife is serving as a Lecturer in a Government College and was drawing basic salary of Rs.63,000/- per month at that time when the impugned order was passed.

7. Though, as is evident from the order passed by the learned Court below, the wife could not prove that the husband indeed was serving as a Sale Executive in one Magma Finance Corporation but then before the learned Court the husband himself admitted that he was earning Rs.15,000/- per month. In the backdrop of the same, the award of maintenance of Rs.3000/-per month in favour of the wife and Rs.6000/- per month in favour of the respondent No.2 cannot be said to be an exorbitant amount, more so, in the light of the fact that the petitioner happens to be a post graduate in Business Administration and further he is hale and hearty and an able bodied person, who is under obligation to look after his wife and child.

8. Therefore, in the light of the fact that the wife is serving as a Lecturer in a Government College and is earning more than Rs.60,000/- per month, we modify the order passed by the learned Court below to the extent that the amount of Rs.3000/-per month, which has been awarded by the learned Court below in favour of the wife is ordered to be awarded in favour of the minor child in addition to Rs.6000/- per month as has been awarded by the learned Court below in terms of order dated 28.03.2024.

High Court of H.P.

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9. In other words, the order under challenge is modified to the extent that the petitioner herein shall not pay any maintenance to the wife, but now he shall pay maintenance to the tune of Rs.9000/- per month to the minor child. With this modification to the order under challenge, the petition stands disposed of, so also pending miscellaneous applications, if any.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

September 30,2026
(meera)

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