

—:: कार्यालय प्रधान जिला एवं सत्र न्यायाधीश, उज्जैन (म.प्र.) ::—

पृष्ठा.क्र० 6731 / एक-6-2/11

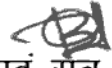
उज्जैन, दिनांक अगस्त 2026

22 AUG 2026

प्रतिलिपि :-

1. (समस्त न्यायाधीशगण, जिला उज्जैन)
की ओर माननीय उच्च न्यायालय मध्यप्रदेश, जबलपुर का ज्ञापन क्रं. बी/4821
दिनांक 05.08.2026 की प्रति मय Criminal Revision No. 3769 of 2025 "Shailendra Rai
Vs Smt. Pragati Rai" में माननीय उच्च न्यायालय द्वारा पारित आदेश दिनांक 24.07.
2026 की प्रति सहित सूचनार्थ, पालनार्थ एवं आवश्यक कार्यवाही हेतु संलग्न प्रेषित।
2. श्री पवन कुमार पटेल तृतीय जिला एवं अपर सत्र न्यायाधीश उज्जैन
3. जूनियर सिस्टम एनॉलिस्ट जिला न्यायालय उज्जैन की ओर उक्तानुसार ज्ञापन
की प्रति मय सहपत्रों के सूचनार्थ एवं इस टीप के साथ प्रेषित कि वे समस्त
न्यायाधीशगण के ई-मेल पर प्रेषित करें।

संलग्न : उपरोक्तानुसार


प्रधान जिला एवं सत्र न्यायाधीश,
उज्जैन (म.प्र.)

HIGH COURT OF MADHYA PRADESH: JABALPUR

No.

B/4821..
III-2-3/74 (S. 125)

Jabalpur, dated 05/08/2026

To,

1. The Principal District and Sessions Judge(s),
All in the State (M.P.)
2. The Principal Judge, Family Court(s)
All in the State (M.P.)

Subject:- Compliance of directions of the Honourable High Court of Madhya Pradesh order dated 24.07.2026 in Criminal Revision No. 3769 of 2025 in the case of "Shailendra Rai Vs. Smt Pragati Rai."

Sir/Madam,

Please find enclosed herewith a copy of the order 24.07.2026 in **Criminal Revision No. 3769 of 2025** in the case of "Shailendra Rai Vs. Smt Pragati Rai."

As directed, I request you to bring the same into the knowledge of all the Judicial Officers under your kind control for information, compliance and necessary action.

Encl:- As above.

Mukesh Rawat
05/08/26

MUKESH RAWAT

REGISTRAR District Establishment

Endt. No.

B/4822..
III-2-3/74 (S. 125)

Jabalpur, dated 05/08/2026

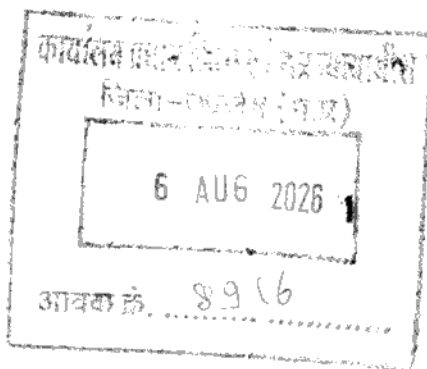
Copy forwarded to:-

The Principal Registrar (J)/Registrar (J-II), Registrar (I & L) and Director, Madhya Pradesh State Judicial Academy, Jabalpur for information and appropriate action.

Mukesh Rawat
05/08/26

MUKESH RAWAT

REGISTRAR District Establishment





IN THE HIGH COURT OF MADIYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL

ON THE 24th OF JULY, 2026

CRIMINAL REVISION No. 3769 of 2025

SHAIENDRA RAI

Versus

SMT PRAGATI RAI

Appearance:

Shri Shakti Prakash Pandey - Advocate for the petitioner.

Shri Sushil Kumar Jha - Advocate for the respondent.

ORDER

This criminal revision has been preferred by the petitioner/husband challenging the order dated 16.07.2025 passed by Principal Judge, Family Court, Damoh in MJCR Case no.136/2023, whereby the Family Court has allowed an application under Section 125 of Cr.P.C. and awarded an amount of Rs.15,000/- to the respondent/wife, towards monthly maintenance.

2. Learned counsel for the petitioner/husband submits that although the petitioner did not place his salary/pay slip on record, but in spite of the admitted net income/salary of the petitioner to be Rs.29,134/- p.m. (gross salary to be Rs.33,373/- p.m.), the Family Court has committed an illegality in awarding an amount of Rs.15,000/- p.m. towards maintenance, just contrary to law laid down by Hon'ble Supreme Court in the case of Kalyan Dey Chowdhury vs. Rita Dey



Chowdhury Nee Nandy, (2017) 14 SCC 200 = AIR 2017 SC 2383. With these submissions, he prays for setting aside the impugned order and for allowing the criminal revision.

3. Learned counsel appearing for the respondent/wife supports the impugned order and prays for dismissal of the criminal revision.

4. Heard learned counsel for the parties and perused the record.

5. Needless to mention, before passing an order of maintenance, in addition to the finding of separate living with sufficient reason, the Court has to consider income/financial status of the parties. While deciding point for determination no.2, the Family Court has vide paragraphs 18 & 19 of the impugned order, tried to see the income/financial status of the respondent/wife and concluded that respondent/wife has no sufficient source of income to maintain herself.

6. In continuation of the aforesaid, the Family Court has from paragraph 20 to 23, appreciated evidence in respect of income/financial status of the petitioner/husband. In paragraph 20, the Family Court has taken into consideration oral admission of the petitioner/husband regarding his net salary to be Rs.29,134/- p.m. and from paragraph 21 to 23, has considered the evidence of petitioner/husband regarding expenditures being allegedly done by him and at last rejected the pleas taken by the husband in respect of alleged expenses being borne by him. However, no finding in respect of income of the husband, has been recorded in the impugned order.

7. It is pertinent to mention here that although the order-sheet dated 26.06.2023 drawn by the Family Court, records that an affidavit in compliance with the directions issued by the Hon'ble Supreme Court in *Rajnish v. Neha & Anr.*, (2021) 2 SCC 324 has been filed, but a perusal of the record received from



the Family Court. Damoh reveals that no such affidavit is available on record. Thus, the recital made in the order-sheet is not borne out by the record transmitted to this Court.

8. As to on what basis the Family Court has awarded an amount of Rs.15,000/- to the respondent/wife towards monthly maintenance, is not clear on record, especially in the light of satisfaction recorded by the Family Court in paragraph 20 of the impugned order, on the basis of admission made by the petitioner/husband regarding his net salary to be Rs.29,134/- p.m. For the sake of argument, if this amount is taken to be the net monthly income of the petitioner/husband (*in absence of salary/pay slip*), then awarding of Rs.15,000/- towards monthly maintenance is contrary to the law declared by Hon'ble Supreme Court in the case of Kalyan Dey Chowdhury (*supra*). Relevant paragraph 16 of which, is quoted as under:

"16. The review petition under Order XLVII Rule 1 CPC came to be filed by the respondent-wife pursuant to the liberty granted by this Court when the earlier order dated 02.02.2015 awarding a maintenance of Rs. 16,000/- to the respondent-wife as well as to her minor son was under challenge before this Court. As pointed out by the High Court, in February 2015, the appellant-husband was getting a net salary of Rs. 63,842/- after deduction of Rs. 24,000/- on account of GPF and Rs. 12,000/- towards income-tax. In February, 2016, the net salary of the appellant is stated to be Rs. 95,527/- . Following Dr. Kulbhushan Kumar v. Raj Kumari and Anr. (1970) 3 SCC 129, in this case, it was held that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the respondent-wife. The amount of permanent alimony awarded to the wife must be befitting the status of the parties and the capacity of the spouse to pay maintenance. Maintenance is always dependant on the factual situation of the case and the court would be justified in moulding the claim for maintenance passed on various factors. Since in February, 2016, the net salary of the husband was Rs. 95,000/- per month, the High Court was justified in enhancing the maintenance amount. However, since the appellant has also got married second time and has a child from the second marriage, in the interest of justice, we think it proper to reduce the amount of maintenance of Rs. 23,000/- to Rs. 20,000/- per month as maintenance to the respondent-wife and son."

9. As has been held by the Hon'ble Supreme Court in the case of Rajnesh (*supra*), while passing the order of maintenance to the wife, the Family Court is required to take into consideration financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant



family members whom he is obliged to maintain under the law, liabilities if any, with a view to *arrive at the appropriate quantum of maintenance to be paid*. Meaning thereby, the Court is required to record specific finding in respect of monthly income of the husband, so that appropriate amount of maintenance may be awarded to the party concerned.

10. Recently, in the case of Anamika Jain v. Dr. Atul Jain, 2026 Supreme (SC) 361 = SLP (C) No. 5220 of 2024, the Hon'ble Supreme Court has held as under :

"10. Marriage, as an institution in our society, is founded on emotional bonding, companionship, and mutual support, which cannot be evaluated in purely monetary terms. A woman often enters matrimony with legitimate aspirations of a stable and dignified life. When such a marriage breaks down, the obligation of the husband to ensure that the wife is able to live with dignity does not come to an end merely on the ground that she is educated or has parental support. Post-divorce, the wife is entitled to live a life consistent with the standard of living she was accustomed to during the subsistence of the marriage.

11. In this context, reference may be made to the decision of this Court in Bhuwan Mohan Singh v. Meena and others, (2025) 6 SCC 353, wherein, while dealing with proceedings under Section 125 Cr.P.C. it was observed as under:

"2... The concept of sustenance does not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else. She is entitled in law to lead a life in the similar manner as she would have lived in the house of her husband. That is where the status and strata come into play, and that is where the obligations of the husband, in case of a wife, become a prominent one. In a proceeding of this nature, the husband cannot take subterfuges to deprive her of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the field, it is the obligation of the husband to see that the wife does not become a destitute, a beggar. A situation is not to be maladroitly created whereunder she is compelled to resign to her fate and think of life "dust unto dust". It is totally impermissible. In fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able bodied. There is no escape route unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds."

11.1. In Rajnesh v. Neha and another, (2024) 2 SCC 324, this Court comprehensively examined the principles governing maintenance of wife, children and parents, and framed authoritative guidelines under Article 142 of the Constitution. The following observations are apposite:

"77. The objective of granting interim / permanent alimony is to ensure that the dependant spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

78. The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and



professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife [Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun, (2012) 3 SCC (Civ) 290]; Refer to Vinny Parmvir Parmar v. Parmvir Parmar (2018) 2 SCC (Civ) 712, this Court held

79. In Manish Jain v. Akanksha Jain, (2018) 2 SCC (Civ) 712, this Court held that the financial position of the parents of the applicant-wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the Court should mould the claim for maintenance based on various factors brought before it.

80. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications."

"90. The Courts have held that if the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband. The Courts have provided guidance on this issue in the following judgments:

90.1. In Shailji v. Khobbanna, (2014) 16 SCC 715; (2015) 3 SCC (Civ) 753; (2015) 3 SCC (Cri) 589, this Court held that merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court. **The Court has to determine whether the income of the wife is sufficient to enable her to maintain herself, in accordance with the lifestyle of her husband in the matrimonial home** [Chaturbhuj v. Sita Bai, (2008) 1 SCC 347; (2008) 1 SCC (Cri) 356]. Sustainance does not mean, and cannot be allowed to mean mere survival [Vipul Lakhanpal v. Pooja Sharma 2015 SCC OnLine HP 1252; 2015 Cri LJ 3451]."

12. In the present case, the material on record indicates that the respondent - husband has sufficient earning capacity and financial means to pay more than Rs. 15,000/- per month towards permanent alimony. Considering the present cost of living, the impact of inflation over the past decade, and the overall circumstances of the parties, we are of the view that the amount awarded by the Family Court, as affirmed by the High Court, is inadequate and warrants enhancement."

11. From perusal of the impugned order and as has been conceded by learned counsel for the petitioner/husband, it is clear that the petitioner/husband did not place his salary/pay slip on record. Apparently, the application under Section 125 of Cr.P.C. was filed on 26.06.2023 i.e. after decision given by Hon'ble Supreme Court in the case of Rajnesh Vs. Neha & Another, (2021) 2 SCC 324, in



which certain guidelines in respect of filing/submission of salary/pay slip, have been issued. As to why, the directions issued by Hon'ble Supreme Court, have not been followed by the parties or by the Family Court, is not clear from the record.

12. While considering the principles of judicial discipline, recently the Hon'ble Supreme Court has in the case of *Rajesh Goyal v. M/s Laxmi Constructions and Others*, AIR 2026 SC 1731 = 2026 INSC 299, held as under:

"13. In these facts, we may observe that the only reason this matter has resulted in the passing of this order is because the cherished principle of judicial discipline and adherence to generally accepted principles of law was put to the wayside. Respect for the authority of orders passed post adjudication by a judicial activity, be it this Court or the High Court is a basic principle of judicial comity, more so, upon attaining finality. The principle of nullity of jurisdiction is also common knowledge and well established. Yet, here we are. It has to be acknowledged that this is not the first time this Court is confronted with such a situation. We may only make reference to what has been observed on similar past instances as follows:

In *Baradakanta Misra v. Bhimsen Dixit*, (1973) 1 SCC 446

"15.....The analogy of the inferior court's disobedience to the specific order of a superior court also suggests that his conduct falls within the purview of the law of contempt. Just as the disobedience to a specific order of the Court undermines the authority and dignity of the court in a particular case, similarly the deliberate and mala fide conduct of not following the law laid down in the previous decision undermines the constitutional authority and respect of the High Court. Indeed, while the former conduct has repercussions on an individual case and on a limited number of persons, the latter conduct has a much wider and more disastrous impact. It is calculated not only to undermine the constitutional authority and respect of the High Court, generally, but is also likely to subvert the Rule of Law and engender harassing uncertainty and confusion in the administration of law."

In *Union of India v. Kamalakshi Finance Corporation Ltd.* 1992 Supp (1) SCC 443

"6.....The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities "

In *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee* , (1995) 5 SCC 457

"Duty of the Judge to maintain high standard of conduct. Its judicial individualism - Whether protection imperative?"

21. Judicial office is essentially a public trust. Society is, therefore, entitled to expect that a Judge must be a man of high integrity, honesty and required to have moral vigour, ethical firmness and impervious to corrupt or venial influences. He is required to keep most exacting standards of propriety in judicial conduct. Any conduct which tends to undermine public confidence in the integrity and impartiality of the court would be deleterious to the efficacy of judicial process. Society, therefore, expects higher standards of conduct and rectitude from a Judge. Unwritten code of conduct is writ large for judicial officers to emulate and imbibe high moral or ethical standards expected of a higher judicial functionary, as wholesome standard of conduct which would generate public confidence, accord dignity to the judicial office and



enhance public image, not only of the Judge but the court itself. It is, therefore, a basic requirement that a Judge's official and personal conduct be free from impropriety, the same must be in tune with the highest standard of propriety and probity. The standard of conduct is higher than that expected of a layman and also higher than that expected of an advocate. In fact, even his private life must adhere to high standards of probity and propriety, higher than those deemed acceptable for others. Therefore, the Judge can ill-afford to seek shelter from the fallen standard in the society.

23. To keep the stream of justice clean and pure, the Judge must be endowed with sterling character, impeccable integrity and upright behaviour. Erosion thereof would undermine the efficacy of the rule of law and the working of the Constitution itself. The Judges of higher echelons, therefore, should not be mere men of clay with all the frailties and foibles, human failings and weak character which may be found in those in other walks of life. They should be men of fighting faith with tough fibre not susceptible to any pressure, economic, political or of any sort. The actual as well as the apparent independence of judiciary would be transparent only when the office-holders endow those qualities which would operate as impregnable fortress against surreptitious attempts to undermine the independence of the judiciary. In short, the behaviour of the Judge is the bastion for the people to reap the fruits of the democracy, liberty and justice and the antithesis rocks the bottom of the rule of law."

In *M.A. Murthy v. State of Karnataka*, (2003) 7 SCC 517

"8.....The doctrine of binding precedent helps in promoting certainty and consistency in judicial decisions and enables an organic development of the law besides providing assurance to the individual as to the consequences of transactions forming part of the daily affairs....."

13. Since, the law declared by the Hon'ble Supreme Court is the law of land, therefore, is binding on all the Courts including the High Courts. Similarly, the guidelines issued by the Hon'ble Supreme Court, which are authoritative guidelines issued under Article 142 of the Constitution of India, have to be followed as they exist, in their letter and spirit. If the same is/are not followed, that may amount to contempt of Court.

14. At this stage, it is apposite to note that Hon'ble Supreme Court has repeatedly emphasised the mandatory compliance of the guidelines laid down in *Rajnesh (Supra)*, so as to ensure uniformity and expeditious adjudication of the proceedings, arising out of matrimonial disputes, which is also apparent from the observation made by Hon'ble Supreme Court in the case of *Aditi alias Mithi v.*



Jitesh Sharma, (2024) 14 SCC 355 = 2023 INSC 981, relevant paragraphs of which are as follows:

"14. Nothing is evident from the record or even pointed out by the learned counsel for the appellant at the time of hearing that affidavits were filed by both the parties in terms of the judgment of this Court in Rajnesh case [Rajnesh v. Neha, (2021) 2 SCC 324 : (2021) 2 SCC (Civ) 220 : (2021) 1 SCC (Cri) 749], which was directed to be communicated to all the High Courts for further circulation to all the Judicial Officers for awareness and implementation. The case in hand is not in isolation. Even after pronouncement of the aforesaid judgment, this Court is still coming across number of cases decided by the courts below fixing maintenance, either interim or final, without there being any affidavit on record filed by the parties. Apparently, the officers concerned have failed to take notice of the guidelines issued by this Court for expeditious disposal of cases involving grant of maintenance. Comprehensive guidelines were issued pertaining to overlapping jurisdiction among courts when concurrent remedies for grant of maintenance are available under the Special Marriage Act, 1954, Section 125 CrPC, the Protection of Women from Domestic Violence Act, 2005, the Hindu Marriage Act, 1955 and the Hindu Adoptions and Maintenance Act, 1956, and criteria for determining quantum of maintenance, date from which maintenance is to be awarded, enforcement of orders of maintenance including fixing payment of interim maintenance. As a result, the litigation which should close at the trial level is taken up to this Court and the parties are forced to litigate.

15. As in the case in hand, the impugned order passed by the High Court is cryptic and is bereft of reasons. In our opinion, the same deserves to be set aside and the matter is liable to be remitted to the High Court for consideration afresh. Ordered accordingly. As the respondent remained unrepresented, the High Court may issue notice for his appearance on the date so fixed by it.

16. Considering the facts of the case in hand and the other similar cases coming across before this Court not adhering to the guidelines given in Rajnesh case [Rajnesh v. Neha, (2021) 2 SCC 324 : (2021) 2 SCC (Civ) 220 : (2021) 1 SCC (Cri) 749], we deem it appropriate to direct the Secretary General of this Court to re-circulate the aforesaid judgment not only to all the Judicial Officers through the High Courts concerned but also to the National Judicial Academy and the State Judicial Academies, to be taken note of during the training programmes as well. Ordered accordingly."

15. Recently, this Court also in the case of Rishabh Shrivastava vs. Smt. Ritu Shrivastava @ Pinki Shrivastava and others, 2026 LiveLaw (MP) 293 = Cr. Revision No.4116/2024 order dtd.17.07.2026 (at Jabalpur) while allowing the criminal revision followed the guidelines issued in the case of Rajnesh (*supra*) and held as under:-

"7. From perusal of paragraph 13 of the impugned order, it is clear that Family Court has, on the basis of the post/designation of the petitioner/husband held by him as Marketing Manager in the Bisan Agro Tech (I) Limited, Akola, presumed the monthly salary/income of the petitioner to be Rs.50,000/- per month and on the basis of admission made by the respondent I-wife in respect of her monthly income of Rs.6,000/- and even in absence of any pay slip of the respondent I-wife, awarded the aforesaid amount of maintenance.

8. In my considered opinion, in absence of any pay slip of the respondent I-wife, the Family Court has committed an illegality in accepting the income of the respondent I-wife to be



Rs.6,000/- p.m. on the basis of assertion in the affidavit filed by the respondent I/wife and even in presence of the pay slip of the petitioner/husband, has committed an illegality in presuming the income of the petitioner/husband to be Rs.50,000 - p.m..

9. The Hon'ble Supreme Court in the case of Rajnesh vs. Neha and another, (2021) 2 SCC 324, has held as under:

"70. We feel that the Affidavit to be filed by parties residing in urban areas, would require to be entirely different from the one applicable to rural areas, or tribal areas. For this purpose, a comprehensive Affidavit of Disclosure of Assets and Liabilities is being attached as Enclosure I and II to this judgment

ENCLOSURE I

Affidavit of Assets and Liabilities for Non-Agrarian Deponents

I _____, d/o _____ or s/o _____, aged about _____ years, resident of _____, do hereby solemnly affirm and declare as under:

A. *****

B. *****

C. *****

D. *****

E. *****

F. Details of Income of the Deponent

1. Name of employer:

2. Designation:

3. Monthly income:

4. If engaged in Government Service, furnish latest Salary Certificates or current Pay Slips or proof of deposit in bank account, if being remitted directly by employer.

5. If engaged in the private sector, furnish a certificate provided by the employer stating the designation and gross monthly income of such person, and Form 16 for the relevant period of current employment.

6. If any perquisites, benefits, house rent allowance, travel allowance, dearness allowance or any other service benefit is being provided by the employer during the course of current employment.

7. Whether assessed to income tax?

If yes, submit copies of the Income Tax Returns for the periods given below :

(i) One year prior to marriage

(ii) One year prior to separation

(iii) At the time when the Application for maintenance is filed

8. Income from other sources, such as rent, interest, shares, dividends, capital gains, FDRs, Post office deposits, mutual funds, stocks, debentures, agriculture, or business, if any, alongwith TDS in respect of any such income.



9. Furnish copies of Bank Statement of all accounts for the last 3 years."

 10. Also in the case of Smt. Geeta & Anr. v. The State & Anr., 2025 LiveLaw (Del) 1108 = 2025 Supreme(Online)(Del) 48735 decided on 10.09.2025, a Coordinate Bench of Delhi High Court has held as under:

"10. In the above context, this Court has carefully examined the evidence on record as well as the findings recorded by the learned Family Court. Insofar as the wife's claim for maintenance is concerned, it emerges that she had admitted in her cross-examination that she is employed in the Education Department at Khekra, Baghpat, though on a temporary basis. She further admitted that her salary slip of December 2016 reflected her salary as Rs. 33,052/- and her income tax return for the year 2017-2018 also disclosed an annual income of Rs. 4,00,724/-. though it is her case that thereafter, her services were terminated by way of judgment dated 25.07.2017 passed by the Hon'ble Supreme Court, after which she was working on a temporary basis. While she claimed that her current salary is only Rs. 10,000/- per month, she failed to produce any recent salary slip or Form-16 to substantiate the same, and thus, no recent salary certificate was placed before the learned Family Court despite opportunities given by the learned Trial Court. She also did not offer any plausible explanation in the evidence for withholding recent salary details.

11. The learned Family Court, thus rightly reached to a conclusion that such omission, without any cogent explanation, casts a doubt on the genuineness of her claim and justifies an adverse inference against her. The learned Family Court, therefore, rightly held that the wife had concealed her actual income and withheld the most relevant documents which alone could establish her present financial incapacity. This Court concurs with that view, as the primary ingredient for grant of maintenance to a wife under Section 125 Cr.P.C. – i.e. her inability to maintain herself – has not been satisfactorily proved, in absence of clear and reliable evidence of financial hardship, the claim of the wife becomes speculative and cannot be sustained."

11 In view of the aforesaid and in my considered opinion, the Family Court ought to have directed both the parties to produce the current pay slip on record, as the same constitutes cogent evidence for determining the Income/financial status of parties to the lis and then on that basis ought to have passed the impugned order awarding maintenance to the respondents. Without there being any proper proof of income of Respondent 1/wife the Family Court is not right in accepting the income of Respondent 1/wife to be Rs.6,000/- per month. Similarly, the Family Court is not right in presuming monthly salary of the petitioner/husband to be Rs.50,000/- p.m. ignoring the available pay-slip regarding salary of the petitioner/husband. If the Court was not satisfied with the photocopy of pay slip of the petitioner/husband's income, then the production of a fresh original pay slip could have been ordered."

16. In view of the aforesaid discussion and in my considered opinion, for want of compliance of the aforesaid guidelines, the impugned order being unsustainable, deserves to be and is hereby set aside and the matter is remanded to the Family Court with the direction to restore the application under Section 125 of Cr.P.C. to its original number and to decide the same afresh after ensuring



compliance of the directions/guidelines issued by the Hon'ble Supreme Court in the case of Rajnesh Vs. Neha & Anr., (2021) 2 SCC 324.

17. However, it is made clear that since the petitioner/husband himself did not comply with the guidelines issued by the Hon'ble Supreme Court in the case of Rajnesh (*supra*), therefore, the petitioner/husband shall continue to pay the awarded amount of Rs.15,000/- p.m. to the respondent/wife, till fresh decision of application under Section 125 of Cr.P.C.

18. With the aforesaid, this criminal revision is **partly allowed and disposed of**.

19. Pending application(s), if any, shall stand disposed of.

20. It is also apt to mention here that in all the maintenance proceedings arising out of matrimonial disputes, for want of compliance of the aforesaid guidelines, this Court is left with no option but to waste its precious time in asking questions from the concerned counsel(s) appearing for the parties, as to whether the parties have followed/complied with the guidelines issued by the Hon'ble Supreme Court in the case of Rajnesh (*supra*) or not and in most of the cases they are unable to state whether such compliance has been made or give equivocal answers, compelling the court to undertake physical verification of the record to satisfy itself of compliance. Thereafter, duty of the Court begins and it has to check entire record produced by the parties or to call for the record of the Court below to clear the aforesaid doubt, which is sheer wastage of time of the Court.

21. Hence in these compelling circumstances, all the Family Courts of the State of Madhya Pradesh or other Courts having jurisdiction to decide the maintenance application/cases, are directed to make mention in first/starting paragraph of the order awarding maintenance (whether interim or final, both) as to whether the parties have complied with the aforesaid guidelines or not. If answer is



'no', then to mention the circumstances in which the parties have failed to comply with the same, so that adverse inference may be drawn against the concerned/erring party.

22. Principal Registrar (J) is directed to place copy of this order before Hon'ble the Acting Chief Justice seeking approval for circulation among all the Judicial Officers/Family Court Judges through the respective Principal District and Sessions Judge of each District across the State of Madhya Pradesh to comply with the directions given in the order, so as to avoid such/same mistakes in future.

sd/-
(DWARKA DHISH BANSAL)
JUDGE

pb