

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36522 – 2019 (O & M)

Date of Decision : 06.01.2020

Jaspreet SinghPetitioner

Versus

Gurleen KaurRespondent

CORAM : Hon'ble Mr. Justice Gurvinder Singh Gill

Present : Mr. Naveen Bawa, Advocate, for the petitioner.
Mr. Jaideep Verma, Advocate, for the respondent.

* * * * *

Gurvinder Singh Gill, J.

1. The petitioner Jaspreet Singh (husband) seeks setting aside of order dated 25.07.2019 (Annexure P-4), passed by Additional Principal Judge, Family Courts, Ludhiana, whereby his application seeking issuance of a direction to respondent(wife) to comply with the order dated 23.10.2018 has been dismissed.

2. The relevant facts may, briefly, be stated chronologically as follows:

20.8.2015 : An application under Section 125 Cr.P.C. was filed by respondent(wife) seeking maintenance from petitioner(husband).

23.10.2018 : During the pendency of the aforesaid application, the petitioner Jaspreet Singh moved an application seeking issuance of a direction to be issued to respondent-wife for

admission or denial of certain facts as regards period of her employment since she had taken a different stand in her transfer application, filed in the High Court. The trial Court vide order dated 23.10.2018, issued a direction to respondent wife to clarify the facts pertaining to the period when she had been working and as to when she had left the job and for the said purpose she was directed to appear before the Court and to get her statement recorded to the said effect or to file an affidavit in respect of the same.

25.7.2019 : Since the respondent wife neither filed any affidavit nor furnished the requisite information as regards period of her employment as had been specifically directed vide order dated 23.10.2018, the petitioner moved an application before trial Court seeking issuance of a direction to the respondent either to make a statement in this regard or to furnish an affidavit for compliance of order dated 23.10.2018. However the trial Court, vide impugned order dated 25.07.2019, dismissed the said application.

3. I have heard the learned counsel for the parties and have also perused the impugned order as well as order dated 23.10.2018. The relevant extract from order dated 23/10/2018 wherein certain directions were issued to respondent wife reads as follows:

“Consequently, in the interest of justice, for the purpose of proper adjudication of the case, this Court finds it necessary to direct the respondent to clarify the facts pertaining to the same by specifying the dates as to when she was working, when she left the job, her date of filing of transfer application and the present petition. For the said purpose petitioner is directed to appear before the Court and get her statement recorded to that effect or to file an affidavit in lieu of the same (alternatively). The application is accordingly, disposed

of.”

4. Since the aforesaid order was not complied with by the respondent wife, the petitioner moved an application before the trial Court seeking issuance of a directions to respondent wife to comply with order dated 23.10.2018. However, the said application was dismissed vide impugned order dated 25.07.2019, the operative portion of which reads as follows:

“I have heard learned counsel for both the parties. Witness is present to face cross-examination. Once witness is present and is ready to face cross-examination, she cannot be directed to file fresh affidavit at the instance of the opposite party. The applicant/respondent is directed to put the relevant document for the purpose in the cross-examination of witness for confrontation. The application is accordingly dismissed.”

5. Having perused the impugned order dated 25.07.2019, this Court is of the opinion that the trial Court fell in error in dismissing the application inasmuch as the facts do not show that directions issued on 23.10.2018 had been complied with as neither any affidavit had been filed nor any specific statement of the respondent-wife in this regard had been recorded. The fact that the respondent wife was present for the purpose of her cross-examination in respect of her examination-in-chief recorded earlier cannot be said to be compliance of order dated 23.10.2018. The respondent, in order to comply with directions issued on 23.10.2018 was required to state specifically regarding the period of employment. Needless to mention, such statement can be said to be complete only after

the opposite side is afforded an opportunity to cross-examine her in respect of such statement.

6. Consequently, the view taken by the trial Court that presence of respondent-wife for her cross-examination, without having recorded her specific statement as regards period of her employment as had been mandated in order dated 23.10.2018, would be sufficient compliance of direction dated 23.10.2018 cannot be upheld. The impugned order dated 25.7.2019(Annexure P-4), is, thus, set aside and respondent wife is directed to comply with order dated 23.10.2018 either by way of furnishing an affidavit as regards the material facts in respect of period of her employment or to get her statement recorded specifically in this regard with liberty to the petitioner to cross-examine the respondent in respect of her such deposition. In case the respondent does not comply with order dated 23.10.2018 within one month from today or within such period as may be specified by trial Court, it shall be open to the trial Court to draw adverse inference against the respondent-wife in respect of the period of employment.

7. Before parting with this judgement, this Court, based on the factual position in the present case and having come across numerous other identical matters while handling cases pertaining to “Crime against Women”, would observe that invariably there is colossal delay in disposal of cases pertaining to maintenance. In the present case itself the application under Section 125 Cr PC has been pending since the year 2015 i.e. since last more than four years. Although, in the present case, it may be the wife herself who can be said to have contributed to the delay

in disposal of the petition, but in a large number of cases it is noticed delays occur on account of the fact that the hapless wife is left fending for herself collecting documents and evidence as regards financial status of her husband so as to seek appropriate maintenance.

8. The maintenance is certainly not to be awarded as a punitive measure but is to serve social cause to prevent the wife from being forced into vagrancy. Whenever the Courts are faced with the task of assessing the quantum of maintenance to be awarded to the wife, the income and resources of her husband are required to be assessed in order to reach at a just figure regarding compensation. While determining the quantum of maintenance, the Court has to be aware not just about the income of the parties but also as regards the social status enjoyed by them. At times it becomes a difficult task to assess the income in view of the fact that in many cases the spouse may not be working on salaried job or may be self-employed or working in an unorganised sector or running his own business and wherein it is generally noticed that there is a tendency to conceal the correct income so as to avoid paying income tax. In such a scenario, the Court can make an attempt by resorting to some kind of guesswork based on the comforts and luxuries enjoyed by the husband which could include information of the following nature:

- (i) the number and kind of vehicles being used by the husband, whether self-owned or by family or company;
- (ii) the kind of phones being maintained by him;
- (iii) the credit cards/debit cards and their statements;

- (iv) details of foreign visits or holiday excursions within India;
- (v) kind of electrical/electronic gadgetary being used in the household;
- (vi) details of EMIs/ loan instalments being paid;
- (viii) details of investments.

9. However, since it is the husband who would be having domain over the documents which could furnish information on aforesaid aspects, the wife is left virtually helpless, being bereft of requisite information required for assessing maintenance. More often than not, even in cases where the husband happens to be employed in government service and who cannot possibly conceal his income, the wife is constrained to seek information as regards salary by way of filing application under RTI regarding his salary. In some cases, the wife would be constrained to approach the revenue authorities seeking information regarding the land held by the husband or approach authorities concerned to get his income tax returns, which for a hapless wife is a herculean task, particularly if there is none else in her family to pursue her case. Such exercise leads not only in delays in disposal of application for maintenance but at times justice cannot be dispensed for want of proper information. Repeated adjournments by the Courts to enable the parties to adduce evidence would tax the system unnecessarily which is already fighting backlogs.
10. Although, exclusive Family Courts have been established specifically for such purpose which would be handling cases under section 125 Cr PC and also applications moved under Section 24 of Hindu Marriage Act

during the pendency of matrimonial litigation amongst the parties but the Courts at times seem to be over obsessed with the broad principle that it is the petitioner/plaintiff who has to stand on his own legs and to establish his case. There certainly can be no dispute as regards the said proposition of law. There are certainly such issues which the petitioner/party would himself/herself be required to establish - say a case where the relationship itself is disputed or where the assertion that the spouse is living in adultery is to be established. Such facts essentially have to be proved by the party asserting the existence of such facts. However, the facts which a party cannot possibly dispute - say a case where the husband is working in some government office or even in some private establishment where he is getting a fixed salary and is also assessed to income tax or is having rental income in respect of which he is paying income tax or where he is owner of a certain property in his own name, should be disclosed by such party itself rather than the opposite party being forced to collect evidence in respect of the same from various offices i.e. from the employer, from revenue authorities, from bank, from municipal committee etc.

11. Forcing a party to collect information in aforesaid manner results in delays which is against the spirit of the legislation in question. The legislators, realising the urgency in such matters have provided for a time-frame of 60 days during which such applications are supposed to be disposed off. The relevant provisions of various Acts are reproduced below:

Section 125 of Criminal Procedure Code.**125. Order for maintenance of wives, children and parents. -**

(1) If any person having sufficient means neglects or refuses to maintain -

(a) his wife, unable to maintain herself, or

(b) x x x

(c) x x x

(d) x x x

Provided that x x x

Provided further that x x x

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, **be disposed of within sixty days** from the date of the service of notice of the application to such person. (*emphasis supplied*)

Section 24 of Hindu Marriage Act :

24. Maintenance *pendente lite* and expenses of proceedings .Where in any proceeding under this Act it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioners own income and the income of the respondent, it may seem to the Court to be reasonable:

*[Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, **be disposed of within sixty days** from the date of service of notice on the wife or the husband, as the case may be.]* (emphasis supplied)

Section 12 of Protection of Women from Domestic Violence Act, 2005

12. Application to Magistrate .

- (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

Provided that

(2) x x x

(3) x x x

- (4) The Magistrate shall fix the first date of hearing, **which shall not ordinarily be beyond three days** from the date of receipt of the application by the Court.

- (5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) **within a period of sixty days** from the date of its first hearing. (*emphasis supplied*)

12. In tune with the aforesaid provisions prescribing for time-bound disposal of such matters, special provisions have also been incorporated in Family Courts Act, 1984, providing for admission of relevant evidence, which read as follows:

Section 10 of Family Courts Act 1984 :

10. Procedure generally .

(1) x x x

(2) x x x

- (3) Nothing in sub-section (1) or sub-section (2) shall prevent a Family Court from laying down its own procedure with a view to arrive at a settlement in respect of the subject-matter of the suit or proceedings **or at the truth of the facts alleged by the one party and denied by the other.** (*emphasis supplied*)

Section 14 of Family Courts Act 1984 :

14. Application of Indian Evidence Act, 1872 .

A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, **whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872** (1 of 1872). (*emphasis supplied*)

13. Even as per Section 28(2) of Protection of Women from Domestic Violence Act, 2005, liberty has been granted to trial Court to devise its own procedure for expeditious disposal of applications filed under section 12 of the Act. Section 28 reads as follows:

28. Procedure .

- (1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).
- (2) Nothing in sub-section (1) shall prevent the Court from **laying down its own procedure for disposal** of an application under section 12 or under sub-section (2) of section 23. (*emphasis supplied*)

14. A perusal of aforesaid provisions in the Acts dealing with matrimonial litigation makes it evident that not only the mandate of legislation is expeditious disposal of matrimonial litigation particularly applications seeking maintenance but certain provisions especially for Family Courts have been made as regards procedure and admissibility of evidence to facilitate speedy disposal of applications for grant of maintenance.

15. Faced with an identical problem of delays, Delhi High Court has issued certain directions to the trial Court handling such kind of cases so as to insist upon the parties to furnish the requisite information in the nature of affidavits in prescribed format. The first judgement in this regard was rendered in Puneet Kaur versus Inderjit Singh Sahney 2011(30) RCR(Civil) 271, wherein the parties were directed to furnish affidavits as a regards their assets, income and expenditure.
16. The directions as issued an aforesaid judgement were reiterated by Delhi High Court in another judgement and were modified from time to time in case titled Kusum Sharma versus Narinder Kumar Sharma which were examined by Delhi High Court on 3 different occasions. The said judgements are listed below chronologically:

Sr No	Title of Case	Date of Judgment	Citation	Gist of relevant directions issued in the judgment
1	Puneet Kaur <i>Versus</i> Inderjit Singh Sawhney	12.9.2011	2011(30) RCR(Civil) page 271	Both the parties were directed to furnish affidavits as a regards their assets, income and expenditure including details of salary, rental income, income from other resources, bank deposits, investments, properties held or sold, jewellery, household gadgets, credit cards, club membership etc. accompanied by supporting documents detailed therein.

2	Kusum Sharma <i>Versus</i> Mahinder Kumar Sharma	18.9.2014	2015(5) RCR(Civil) page 75	<p>Directions were issued that henceforth all petitions including petitions under Sections 9 to 13 of the Hindu Marriage Act shall be accompanied by an affidavit of assets, income and expenditure of the petitioner in terms of the directions issued in <u>Puneet Kaur's case</u>(supra).</p> <p>The response to the such affidavit of assets, income and expenditure was be filed within two weeks thereafter and the case to be listed for disposal of the application under Section 24 of the Hindu Marriage Act.</p> <p>It was further directed that the aforesaid procedure shall be followed in all cases relating to maintenance under Hindu Marriage Act, Protection of Women from Domestic Violence Act, Hindu Adoption and Maintenance Act as well as Section 125 Cr.P.C.</p>
3	Kusum Sharma <i>Versus</i> Mahinder Kumar Sharma	14.1.2015	2015(5) RCR(Civil) page 467	<p>The directions issued earlier in judgment dated 18.9.2014 were slightly modified. A format of “Affidavit of assets, income and Expenditure” was formulated, forming part of the judgement as Annexure 'A'. The documents required to be annexed with affidavit were also detailed therein. It was, thus, directed that the affidavit should be filed in prescribed format only.</p>
4	Kusum Sharma <i>Versus</i> Mahinder Kumar Sharma	29.5.2017	2017(241) DLT 252	<p>The format of the Affidavits required to be filed by the parties as prescribed in Annexure 'A' in accordance with earlier directions issued on 14.1.2015 was modified and fresh format of affidavits was circulated as Annexure 'A-1'.</p>

5	Kusum Sharma <i>Versus</i> Mahinder Kumar Sharma	6.12.2017	2018(246) DLT 1	<p>The directions issued earlier were slightly modified and it was clarified that it shall not be mandatory to file the requisite affidavits along with the petition and written statement, but the same are required to be filed simultaneously by the parties immediately after the completion of the pleadings.</p> <p>It was further clarified that the Courts would be at liberty to determine the nature and extent of information/documents necessary and shall direct the parties to disclose such relevant information and documents to determine their true income.</p> <p>It was further clarified that in appropriate cases, such as the cases belonging to the lowest strata of the society or case of a litigant who is a permanently disabled/paralytic, the Court may, for reasons to be recorded, dispense with the requirement of the filing of the affidavit or modify the information required.</p>
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17. The modified format of “Affidavit of assets, income and expenditure”, as incorporated in judgement dated 6.12.2017 in case titled *Kusum Sharma Versus Mahinder Kumar Sharma 2018(246) DLT 1*, is reproduced below:

“ ANNEXURE - A1 ”

(FORMAT OF AFFIDAVIT OF ASSETS, INCOME AND
EXPENDITURE TO BE FILED BY THE BOTH PARTIES)

AFFIDAVIT

I _____, son of/wife of _____,
aged about ____ years, resident of _____, do
hereby solemnly declare and affirm as under:

PART – I**PERSONAL INFORMATION RELATING TO THE DEPONENT**

<i>S.No.</i>	<i>Description</i>	<i>Particulars</i>
1.	Name	
2.	Age	
3.	Residential Address	
4.	E-mail Address	
5.	Date of marriage	
6.	Date of separation	
7.	Educational qualifications	
8.	Professional qualifications	
9.	Occupation	
10.	Monthly income (as mentioned at serial no.45)	
11.	Monthly expenditure (as mentioned at serial no.60)	
12.	Whether you are assessed to Income Tax?	
13.	Whether you have sufficient income to support yourself?	
14.	If not, whether you have claimed maintenance from your spouse? If so, how much?	
15.	Whether you are staying at matrimonial home?	
16.	If not staying at matrimonial home, relationship and income of the person with whom you are staying.	
17.	Members of the family:	
	(a) Dependent	
	(b) Non-dependent	
18.	Whether your spouse has claimed maintenance from you? If so, how much?	
19.	Whether you have voluntarily paid or willing to pay maintenance to your spouse? If so, how much?	
20.	Whether you are willing to pay litigation expenses to your spouse? If so, how much?	
21.	Particulars of pending litigation between the parties	
22.	Whether any maintenance order has been passed by any Court? If so, give particulars and attach copy of the order?	
23.	Whether the maintenance is being paid in terms of the aforesaid order? If so, file the statement of maintenance paid upto date	
24.	Expenses incurred on this litigation	
25.	Particulars of the bank account with name and address of the bank for the purpose of payment from or receipt of maintenance, as the case may be	
26.	Name of your counsel and his/her mobile number and e-mail address	

PART - II**RELEVANT INFORMATION RELATING TO THE SPOUSE**

27.	Educational and professional qualifications of your spouse
28.	Whether your spouse was/is earning? If so, give particulars of the occupation and income of your spouse.
29.	Whether your spouse is staying at matrimonial home. If not, whether he/she is staying at his/her own accommodation or at a rented accommodation?
	If staying at a rented accommodation, what is the rent being paid by him/her?
30.	Particulars of the assets and liabilities of your spouse
31.	Do you have any documents relating to the income, assets and expenditure of your spouse? If so, give the particulars and attach copies thereof?

PART - III**RELEVANT INFORMATION RELATING TO THE CHILDREN**

32.	Children from the marriage with their name and age	
33.	Who has the custody of the minor children	
34.	Name and address of school(s) where the children are studying	
35.	Who is bearing the expenditure of Children's education	
36.	How much expenditure has been incurred on the children's maintenance and children's education from the date of separation till now?	
37.	If the children are in custody of your spouse, whether you have voluntarily paid or willing to pay the expenses for the children's maintenance and education? If so, how much?	
38.	Details of expenditure on children	Amount (in Rs.)
	(i) School/College fees	
	(ii) Crech/Day Care/After school care	
	(iii) Books/Stationery	
	(iv) Private Tutions	
	(v) Pocket Money/Allowances	
	(vi) Sports	
	(vii) Outings/summer camps/vacations	
	(viii) Entertainment	
	(ix) Others	
39.	Total Expenditure	
	(Give monthly expenditure)	

PART-IV**STATEMENT OF INCOME**

S. No.	Description	Particulars
40.	In case of salaried persons:	
	(i) Designation	
	(ii) Name and address of the employer	
	(iii) Date of employment	
	(iv) Gross Income including the salary, D.A., commissions/incentives, bonus, perks etc.	
	(v) Perquisites and other benefits provided by the employer including accommodation, cars/other automotive, sweeper, gardener, watchman or personal attendant, gas, electricity, water, interest free or concessional loans, holiday expenses, free or concessional travel, free meals, free education, gifts, vouchers, etc. credit card expenses, club expenses, use of movable assets by employees, transfer of assets to employees, value of any other benefit/amenity/service/privilege and the value of such perquisites and benefits	
	(vi) Deductions from the gross income	
	(vii) Income Tax paid	
	(viii) Net income	
	(ix) Value of stock option benefits if provided by the employer	
	(x) Pension and retirement benefits payable at the time of retirement	
41.	In case of self-employed persons:	
	(i) Nature of business/profession	
	(ii) Whether the business/profession is carried on as an individual, sole proprietorship concern, partnership concern, company or association of persons, HUF, joint family business or in any other form. Give particulars of your share in the business/ profession. In case of partnership, specify the share in the profit/losses of the partnership	
	(iii) Number of employees	
	(iv) Annual turnover/gross receipts	
	(v) Gross Profit	
	(vi) Net Income	
	(vii) Income Tax	

	(viii) Details and value of benefits in kind, perks or other remuneration e.g. provision of car, payment of accommodation etc	
	(ix) Amount of regular monthly withdrawal or drawings	
42.	In case the business/profession is carried on as a Partnership Firm/Company:	
	(i) Registered/Corporate Office of the firm/company	
	(ii) Information and particulars with regard to your shareholding, involvement in the affairs and management of the firm/company	
	(iii) Director's/ Partner's remuneration :-	
	(a) Salary	
	(b) Interest	
	(c) Rent	
	(d) Commission	
	(e) Others	
	(iv) List of all the bank accounts of the firm/company	
	(v) Location of the statutory records and books of account of the firm/company.	
	(vi) List of immovable assets, land and building etc. of the firm/company.	
	(vii) Number of workmen/employees	
	(viii) Current value of your business interest(s)	
	(ix) Current value of your business assets	
	(x) List of directorships held, sitting fees, commission or any other remuneration	
	(xi) Net worth of the company in which you are Director along with the number of shares held in the Company	
43.	Income from Other Sources:	
	(i) Agricultural Income	
	(ii) Rent	
	(iii) Interest on bank deposits and FDRs	
	(iv) Interest on investments including deposits, NSC, IVP, KVP, Post Office schemes, PPF, loans etc.	
	(v) Dividends	
	(vi) Mutual Funds	
	(vii) Annuities	
	(viii) Lease of machinery, plant or furniture	
	(ix) Sale of movable/immovable assets	
	(x) Gifts	
44.	Any other income not covered above	
45.	TOTAL INCOME	
	(Give monthly income)	

PART V**STATEMENT OF EXPENDITURE**

S. No.	Description	Amount(in Rs.)		
46.	Housing	(i) Monthly rent		
		(ii) Mortgage payment(s)		
		(iii) Repairs & Maintenance		
		(iv) Property tax		
47.	Household expenditure	(i) Groceries/Food items/Personal care/clothing		
		(ii) Water		
		(iii) Electricity		
		(iv) Gas		
		(v) Telephone/Mobile		
		(vi) TV Cable/Set-top Box charges & Internet services		
		(vii) Maintenance, replacement and repair of household items, appliances and kitchenware.		
		(viii) Telephone		
		(ix) Domestic full time/part time helper(s)		
		(x) Others (specify)		
48.	Maintenance of Dependents	(i) Parents		
		(ii) Children (as mentioned at serial no.39)		
		(iii) Others		
49.	Transport	(i) Private Transport		
		(a) Driver(s)		
		(b) Fuel		
		(c) Repair/Maintenance		
		(d) Insurance		
		(e) Loan repayment		
		(ii) Public Transport		
		(a) Bus		
		(b) Taxi		
		(c) Metro		
		(d) Auto		
		50.	Medical expenditure	(i) Doctor's Charges

		(iii) Hospital	
		(iv) Other medical expenditure	
		(v) Others (specify)	
51.	Insurance	(i) Life	
		(ii) Annuity	
		(iii) Householders	
		(iv) Medi-Claim	
52.	Entertainment and recreation	(i) Club	
		(ii) Health Club	
		(iii) Gym	
53.	Holiday and vacations		
54.	Gifts		
55.	Legal/litigation expenses		
56.	Discharge of Liabilities	(i) Credit card(s) payment	
		(ii) Hire purchase/lease	
		(iii) Repayment of Loans	
		(a) House loan	
		(b) Car loan	
		(c) Personal loan	
		(d) Business loan	
		(e) Any other loan	
		(iv) Name of the lenders	
		(v) Mode of repayment	
		(vi) Instalment amount	
		(vii) Other personal liabilities	
57.	Miscellaneous	(i) Newspapers, magazines, books	
		(ii) Religious contributions/Charities	
		(iii) Others (specify)	
58.	Pocket Money/Allowance		
59.	Other expenditure (Not specified above)		
60.	TOTAL EXPENDITURE (Give monthly expenditure)		

PART - VI
STATEMENT OF ASSETS

S. No.	Assets	List of Assets		
		At the time of marriage	At the time of Separation	Present Present Estimated Market Value
61.	Real Estate Including			
	(i) Land			
	(ii) Built up properties			
	(iii) Lease hold properties			
	(iv) Agricultural land			
	(v) Investment in real estate such as booking of plots, flats and other immovable properties in your name or in joint names.			
	(vi) Other properties			
	Note 1. : - List your interest in properties, including lease hold interest and mortgages, whether or not you are registered as owner.			
	Note 2. : - Provide legal descriptions and indicate estimated market value of your interest without deducting encumbrances or costs of disposition. (Record encumbrances under debts.)			
62.	Joint Properties			
	(i) Properties presented at or about the time of marriage, which belong jointly to both the husband and wife. Give the status of their possession.			
	(ii) Other joint properties of the parties. Give the status of their possession.			
	(iii) Whether any litigation pending with respect to the joint property? If so, give particulars.			
63.	Liquid Assets:	Account Number	Name of Bank	Current Balance
	(i) Details of all bank accounts including Current, Savings and Demat Accounts in your name, or joint name and balance in the said account	(i)		
		(ii)		
		(iii)		
		(iv)		
	(ii) Cash in Hand			
64.	Investments	Particulars		Current Value
	(i) Details of all investments you hold or, in which you have interest and their current value:			
	a) FDRs, NSC, IVP, KVP, Post Office schemes, PPF etc.			
	b) Deposits with Government and Non-Government entities			

	c) Stocks, shares, debentures, bonds, units and mutual funds, etc.		
	d) Life and endowment policies and surrender value		
	e) Loan given to friends, relatives and others		
	f) Other investments not covered by above items		
65.	Pensions and Retirement Savings Plan	Particulars	Maturity amount
	Indicate name of institution where accounts are held, name and address of pension plan and pension details.		
66.	Corporate/Business Interests	Particulars	Current value
	List any interest you hold, directly or indirectly, in any corporation, unincorporated business, partnership, trust, joint venture and Association of Persons, Society etc.		
67.	Movable Assets	Particulars	Current value
	(i) Motor Vehicles (List cars, motorcycles, scooters etc. along with their brand and registration number)		
	(ii) Livestock		
	(iii) Mobile phone(s)		
	(iv) Computer/Laptop		
	(v) Other electronic gadgets including I-pad etc.		
	(vi) TV, Fridge, Air Conditioner, Microwave, Washing machine, etc.		
	(vii) Other household and kitchen appliances		
	(viii) Quantity of gold, silver and diamond jewellery		
	(ix) Quantity of Silver Utensils		
68.	Intangible properties		
	Including patents, trademark, copyright design and goodwill and their value		
69.	About disposal of properties	Particulars	Present Estimated market value
	Particulars of properties (movable as well as immovable) sold/agreed to be sold between the date of marriage till the date of filing of this affidavit and the sale consideration received from the purchaser		
70.	Others	Particulars	Estimated current value
	List anything else of value that you own, including precious metals, collections, works of art, jewellery or household items of high value. Include location of safety deposit lockers.		

PART - VII
STATEMENT OF LIABILITIES

<i>S. No.</i>	<i>Description</i>	<i>Particulars of Debts</i>	<i>Current Value</i>
71.	Secured debt(s) List all mortgages, loans, and any other debts secured against an asset		
72.	Unsecured Debt(s) List all bank loans, personal loans, credits, overdrafts, credit cards and any other debts		
73.	Other List any other debts, including obligations that are relevant to claim		

PART - VIII
**GENERAL INFORMATION RELATING TO THE STATUS,
STANDARD OF LIVING AND LIFESTYLE**

<i>S. No.</i>	<i>Description</i>	<i>Particulars</i>
74.	Particulars of residential accommodation where you are presently staying (in sq. feet)	
75.	Who is the owner of the residential accommodation? In case of rented accommodation, specify the monthly rent	
76.	Number of part-time/full time domestic helpers and their wages	
77.	Average monthly withdrawal from bank(s)	
78.	Mode of travel in city/outside city	
79.	Membership of clubs/health clubs/gyms, societies and other associations. Specify the membership fee and subscription	
80.	Particulars of credit/debit card(s), its limit and usage	
81.	Particulars of frequent flier cards	
82.	Frequency of foreign travel, business as well as personal	
83.	Category of hotels ordinarily used for stay, official as well as personal	
84.	Category of hospitals opted for medical treatment including type of rooms	
85.	Brand of vehicle, mobile and wrist watch, pen, sunglasses, wallet/bags.	
86.	Expenditure ordinarily incurred on family functions including birthday of the children	
87.	Expenditure ordinarily incurred on festivals	
88.	Expenditure incurred on marriage of family members	
89.	Status of the deponent and his/her family:	
	- High	
	- Upper Middle	
	- Middle	
	- Lower Middle	
	- Low	
	- Below poverty line	

PART - IX**DOCUMENTS RELATING TO ASSETS, INCOME AND EXPENDITURE****PART A
DOCUMENTS RELATING TO PERSONAL INFORMATION**

<i>S.No.</i>	<i>Description</i>
1.	Ration Card
2.	Voter ID Card
3.	Aadhar Card
4.	Driving Licence
5.	PAN Card
6.	Passport

**PART B
DOCUMENTS RELATING TO INCOME, ASSETS AND LIABILITIES**

<i>S. No.</i>	<i>Description</i>	<i>Please Tick</i>		
		<i>Attached</i>	<i>Not Applicable</i>	<i>To follow</i>
7.	Statement of Account of all bank accounts including current, savings and Demat accounts for last 3 years			
8.	Income Tax Return(s) along with Statement of Income and Annexures for last 3 years			
9.	In case of Salaried Persons			
	(i) Appointment letter along with salary structure at time of appointment.			
	(ii) Last Salary Slip			
	(iii) Forms 16, 16A, 12BA & 26AS			
	(iv) Cost to Company Certificate and CIBIL Certificate, wherever applicable			
	(v) Copies of TDS certificates			
10.	In case of self-employed persons			
	(i) Balance Sheet and Profit & Loss Account			
	(ii) Balance Sheet and Profit & Loss Account of the proprietorship firm, if the business is carried on in the name of a sole proprietorship concern			
	(iii) Balance Sheet and Profit & Loss Account of the partnership firm, if the deponent is a partner in a firm along with the Schedule showing the distribution of partners' remuneration and share of profits/losses of the partnership firm and the copy of the partnership deed			
	(iv) Balance Sheet and Profit & Loss Account of the Company in which the deponent is a Director			

	(v) Balance Sheet and Profit & Loss Account of the Association of Persons, HUF, Joint Family business or trust in which the deponent has share			
	(vi) Copy of account of the deponent in the books of the business			
	(vii) Copies of TDS certificates			
11.	In case of Income from other sources:			
	(i) Lease Deed(s)/Rent Agreement(s) /Licence Agreement(s) in respect of the rental income			
	(ii) Interest Certificate in respect of the interest income on deposits and investments			
	(iii) Dividend Certificates in respect of dividend income			
	(iv) Demat holding Statement			
	(v) Sale Deed(s)/transfer documents in respect of the profit on sale of property/properties			
12.	Other relevant documents relating to Income/Assets			
13.	Other relevant documents relating to liabilities			

PART C

DOCUMENTS RELATING TO EXPENDITURE

14.	(i) Documents relating to the expenditure on education of children including tuition fees			
	(ii) Rent and maintenance receipts			
	(iii) Electricity, water, security and gas bills			
	(iv) Documents relating to the salary paid to the employees including domestic helper(s)			
	(v) Documents relating to expenditure on conveyance			
	(vi) Debit and Credit Card statements of all cards			
	(vii) Frequent Flier's Card statements			
	(viii) Mobile and landline phone bills			
	(ix) Internet and TV cable/Set - Top Box bills			
	(x) Documents relating to the repayment of the loans			
	(xi) PPF, EPF and other superannuation fund receipts			
	(xii) Receipts of premium of insurance policies			
	(xiii) Receipts of payments in respect of mutual funds			
	(xiv) Documents relating to payment of interest on bank and other loans			
	(xv) Documents relating to the payment of taxes, including Income Tax and Property Tax			
	(xvi) Other relevant documents relating to Expenditure			

Declaration:

1. I solemnly declare and affirm that I have made full and accurate voluntary disclosure of my income, expenditure, assets and liabilities from all sources. I further declare and affirm that I have no assets, income, expenditure and liabilities other than set out in this affidavit.
2. I undertake to inform this Court immediately upon any material change in my employment, assets, income, expenditure or any other information included in this affidavit.
3. I understand that any false statement made in this affidavit may constitute an offence under Section 199 read with sections 191 and 193 of the IPC punishable with imprisonment upto seven years and fine, and section 209 of Indian Penal Code punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193, 199 and 209 of the Indian Penal Code.

Verification :

Verified at _____ on this ____ day of _____ that the contents of the above affidavit relating to my assets, income and expenditure are true to my knowledge, no part of it is false and nothing material has been concealed therefrom, whereas the contents of the above affidavit relating to the assets, income and expenditure of my spouse are based on information believed to be true. I further verify that the copies of the documents filed along with the affidavit are true copies of the originals.

DEPONENT ”

18. The directions issued by Delhi High Court in respect of filing of “Affidavits of assets, income and expenditure”, initially on 18.09.2014 in Kusum Sharma's case(supra) were modified from time to time pursuant to responses and suggestions received from various quarters including the trial Courts handling matrimonial matters. The directions, as modified in judgement dated 6.12.2017 reported as 2018(246) DLT 1 Kusum Sharma vs. Mahinder Kumar Sharma read as follows:

“ Modified Directions Dated 6th December, 2017

1. *The affidavit of assets, income and expenditure of both the parties is useful to determine the income of the parties in all matrimonial cases. Applying the principles laid down in section 10(3) of the Family Courts Act, 1984 read with section 165 of the Indian Evidence Act, relating to the duty of the Court to ascertain the truth and section 106 of the Indian Evidence Act relating to the duty of the parties to disclose their income, this Court has formulated the format of the affidavit of assets, income and expenditure attached hereto as 'Annexure A1'. The documents required to be filed along with the affidavit are prescribed in the format of the affidavit.*
2. *The affidavit of assets, income and expenditure is to be treated as guidelines to determine the true income of the parties. The Courts is at liberty to determine the nature and extent of information/documents necessary and shall direct the parties to disclose such relevant information and documents to determine their true income. The Courts are at liberty to pass appropriate directions as may be considered necessary to do complete justice between the parties and in appropriate cases, such as the cases belonging to the lowest strata of the society or case of a litigant who is a permanently disabled/paralytic, the Court may, for reasons to be recorded, dispense with the requirement of the filing of the affidavit or modify the information required.*
3. *While formulating the affidavit - Annexure A1, this Court considered Best International Practises mentioned in para 18 of the judgement dated 14th January, 2015. However, this Court has only incorporated important questions and documents though many more questions and documents were considered, which would have complicated the affidavit and caused inconvenience to the litigants. The Courts are at Modified Directions dated 6th December, 2017 liberty to consider Best International Practises mentioned in para 18 of the judgement dated 14th January, 2015 as the guidelines for seeking relevant information and documents.*
4. *Upon completion of the pleadings in the maintenance application, the Court shall fix the date for reconciliation and direct the parties to file*

their affidavits of their assets, income and expenditure simultaneously at the commencement of the reconciliation. It is clarified that the filing of the affidavit of assets, income and expenditure is no more mandatory to be filed along with the petition and the written statement, as directed earlier. The Court shall also direct the party seeking maintenance to produce the passbook of his/her savings bank account in which maintenance can be deposited/transferred.

5. *The Court shall simultaneously take on record the affidavit of assets, income and expenditure of both the parties. If the affidavit of a party is not accompanied with all the relevant documents, the Court may take the affidavit on record and grant reasonable time to file the relevant documents.*
6. *In the event of the failure of the reconciliation efforts, the Court shall grant time to the parties to respond to the affidavit of the opposite party and list the case for hearing on the maintenance application.*
7. *In pending cases of maintenance, the Court may direct the parties to file the affidavit of their assets, income and expenditure, if the parties have not already disclosed their true income.*
8. *If a party makes concealment or false statement in his/her affidavit, the opposite party shall disclose the particulars of the same in his/her response to the affidavit along with the material to show concealment or false statement. The aggrieved party may seek permission of the Court to serve interrogatories and seek production of relevant documents from the opposite party under Order 11 of the Code of Civil Procedure. Modified Directions dated 6th December, 2017.*
9. *The Court shall ensure that the filing of the affidavits by the parties is not reduced to a mere ritual or a formality. Whenever the opposite party discloses sufficient material to show concealment or false statement in the affidavit, the Court may consider examining the deponent of the affidavit under section 165 of the Evidence Act to elicit the truth. The principles relating to the scope and powers of the Court under section 165 of the Evidence Act have been summarized in Ved Prakash Kharbanda v. Vimal Bindal, (2013) 198 DLT 555 which may be referred to. In appropriate cases, the Court may direct a party to file an additional affidavit relating to his assets, income and expenditure at the*

time of marriage and/or one year before separation and/or at the time of separation.

10. *If the statements made in affidavit of assets, income and expenditure are found to be incorrect, the Court shall consider its effect while fixing the maintenance. However, an action under Section 340 Cr.P.C., 1973 is ordinarily not warranted in matrimonial litigation till the decision of the main petition.*
11. *At the time of issuing notice the maintenance application, the Court shall consider directing the petitioner to deposit such sum, as the Court may consider appropriate for payment to the respondent towards interim litigation/part litigation expenses. However, in cases such as divorce petition by the wife who unable to support herself and is claiming maintenance from the respondent husband, it may not be appropriate to direct the petitioner-wife to pay the litigation expenses to the respondent-husband.*
12. *The interim litigation expenses directed by the Court at the stage of issuing notice, does not preclude the respondent from seeking further litigation expenses incurred by the respondent at a later stage. The Court shall consider the respondent's claim for litigation expenses and pass an appropriate order on the merits of each case. Modified Directions dated 6th December, 2017.*
13. *If the disposal of maintenance application is taking time and the delay is causing hardship, ad-interim maintenance be granted to the claimant spouse on the basis of admitted income of the respondent.*
14. *In respect of the claims of permanent alimony under section 25 of the Hindu Marriage Act, the Court may direct the parties to file affidavits of their assets, income and expenditure, if the same has not already been filed by the parties.*
15. *The aforesaid directions/guidelines be followed in all matrimonial cases including cases under Hindu Marriage Act, 1955, Protection of Women From Domestic Violence Act, 2005 Section 125 Cr.P.C, Hindu Adoption and Maintenance Act, 1956, Special Marriage Act, 1954, Indian Divorce Act, 1869, Guardians and Wards Act, 1890 and Hindu Minority and Guardianship Act, 1956.”*

19. A perusal of the above reproduced format of “Affidavit of assets, income and expenditure” would show that a very detailed and comprehensive format has been prepared which virtually takes into account almost all the possible sources of income. Apart from sources of income, the financial status of a party can well be gauged from the expenditure incurred by such party. The chances of reaching at a more accurate assessment regarding the financial status are increased in case the proper information regarding expenditure is there which could take care of a situation where specific sources of income are not forthcoming. The format 'Annexure A-1', reproduced above also defines the details of expenditure which would normally be incurred by the parties.
20. Although in the first blush the aforesaid format may appear to be a bit too comprehensive and detailed but it would certainly serve the purpose effectively for which it has been prescribed. The learned counsel have informed that pursuant to the directions issued by Delhi High Court Kusum Sharma's case in the year 2014, the Family Courts in Delhi are adhering to the practice of insisting upon the parties to furnish “Affidavits of assets income and expenditure” and the said practice has yielded the desired results.
21. The best practices should always be followed particularly if the same are for furtherance of efficient and effective justice dispensation. Furnishing of such affidavits would check the practice of playing “hide and seek” game in such cases where an attempt is made by a party to conceal the income and not come out with resources forcing the other party to make

tiring efforts to collect information which would otherwise be readily available with such party. Sometimes the information is such the existence of which, a party can not even deny. As discussed above, the Courts handling such matters, particularly Family Courts, are competent to devise their own procedure for eliciting requisite information, though of course within the broad framework of law.

22. Consequently, the following directions are issued to Family Courts in the States of Punjab, Haryana and Union Territory of Chandigarh and also to all Courts handling matrimonial litigation in the said states:

- (i) the Courts shall insist upon the parties to furnish “Affidavit of assets, income and expenditure” in the format reproduced above;
- (ii) the Courts shall generally follow the directions issued in Kusum Sharma's case, as have been reproduced above;
- (iii) the Courts would be at liberty to modify the format and the directions as may be deemed necessary in the facts and circumstances of the case;
- (iv) in exceptional cases, the Court may also dispense with the aforesaid requirement of furnishing affidavits especially in cases where the parties belong to the lowest strata of society and are absolutely not likely to be possessed of the sources detailed in the format or where the Court is of the opinion that directing the party to furnish such affidavit would cause unnecessary inconvenience to the party and is not likely to render any fruitful purpose;
- (v) in case it is found that any of the party is making a deliberate attempt to conceal vital information or is trying to mislead the Court, then apart from the penal action which may be warranted on account of such concealment/false statement, it shall be open to the

Court to consider drawing an adverse inference against such party if the conduct of such party so warrants;

- (vi) these guidelines be followed in all matrimonial cases including cases under Hindu Marriage Act, 1955, Protection of Women From Domestic Violence Act, 2005, Section 125 Cr.P.C, Hindu Adoption and Maintenance Act, 1956, Special Marriage Act, 1954, Indian Divorce Act, 1869, Guardians and Wards Act, 1890 and Hindu Minority and Guardianship Act, 1956.
- (vii) the Courts concerned may also issue directions to the parties with regard to filing of requisite affidavits even in pending cases in case it is felt that the parties are not forthcoming with the requisite information with regard to their sources of income;
- (viii) the Courts would be competent to issue any direction at any stage of the proceedings to any of the parties to elicit such information as may be required to reach at a just decision in the matter pertaining to award of maintenance;
- (ix) in case it is found that requisite information as regards resources of any of the parties is not forthcoming, the Courts could even consider appointment of a local commissioner to visit the place of abode or business of any of the parties so as to get an idea about the standard of living and social status of the parties.

23. As already indicated above, the trial Courts concerned would be at liberty to suitably modify any of the aforesaid directions for reaching at a just decision and to achieve the underlying purpose of the beneficial provisions of social legislation. The Registrar General of this Court shall ensure that a copy of this judgement is conveyed to all the District and Sessions Judges in States of Punjab and Haryana and also Union Territory of Chandigarh who shall further circulate the same to all Judicial Officers

working in their respective Sessions Divisions. A copy of this judgement be also sent to the Director, Chandigarh Judicial Academy so as to apprise the newly recruited Judicial Officers undergoing training, about the aforesaid guidelines.

24. This Court appreciates the valuable assistance rendered in the matter by both the learned counsel.

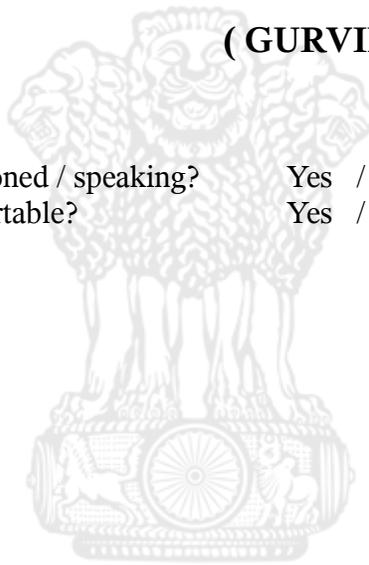
06.01.2020

Kamal

(GURVINDER SINGH GILL)

JUDGE

Whether reasoned / speaking? Yes / No
Whether reportable? Yes / No



सत्यमेव जयते

