

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR(F) No.992 of 2022
Date of Decision : 27.07.2023**

Daljit Singh

.....Petitioner

Versus

Charan Singh and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. G.S. Virk, Advocate
for the petitioner.

Mr. Naresh Gopal Sharma, Advocate
for the respondents.

PANKAJ JAIN, J.

By way of present petition, the petitioner has laid challenge to the order dated 29th of July, 2022 passed by Ld. Additional Principal Judge, Family Court, Ludhiana whereby interim maintenance of Rs.5,000/- each has been ordered by the Family Court as interim maintenance against the petitioner from the date of application under Section 125 Cr.P.C.

2. Respondents are parents of the petitioner. The only argument raised by counsel for the petitioner is w.r.t. non-compliance of the guidelines issued by Apex Court in Criminal Appeal No.730 of 2020 titled as **Rajnesh vs. Neha and Another, (2021) 2 SCC 324** wherein the Apex Court held as under :

“VI. Final Directions

130. In view of the foregoing discussion as contained in Part B - I to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India :

(a) Issue of overlapping jurisdiction

131. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:

(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or set-off, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;

(ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;

(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding.

(b) Payment of Interim Maintenance

132. The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court/District Court/Magistrates Court, as the case may be, throughout the country.

(c) Criteria for determining the quantum of maintenance

133. For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B - III of the judgment.

134. The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.

(d) Date from which maintenance is to be awarded

135. 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.

(e) Enforcement/Execution of orders of maintenance

136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and section 128 of Cr.P.C., 1973 as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC, more particularly Sections 51, 55, 58, 60 r.w. Order 21.

137. Before we part with this judgment, we note our appreciation of the valuable assistance provided by the *Ld. Amici Curiae* Ms. Anitha Shenoy and Mr. Gopal Sankaranarayanan, Senior Advocates in this case.

138. A copy of this judgment be communicated by the Secretary General of this Court, to the Registrars of all High Courts, who would in turn circulate it to all the District Courts in the States. It shall be displayed on the website of all District Courts/Family Courts/Courts of Judicial Magistrates for awareness and implementation.”

3. In the considered opinion of this Court the petitioner being a salaried person was required to come clean on and to place his salary slip on record. However, he has failed to do so. Apart therefrom, the present

revision petition is directed against order of interim maintenance. At this stage, the maintenance ordered by the Family Court cannot be stated to be exorbitant keeping in view the following observations made by the Family Court :

5. The perusal of the file shows that the applicants, being the parents of the respondent/their son, have filed the present petition under Section 125 Cr. P. C for maintenance on the ground that the respondent is the real son of the applicants and the applicants performed his marriage with Jaspal Kaur in the year 2007 and spent huge amount on his marriage from their own pocket being good parents. The applicant no.1 was owner of house constructed on the land measuring 0K-3M situated in village Mahoun, Tehsil Khanna, District Ludhiana and on first floor portion of said house, the respondent alongwith his family is residing and on the ground floor, the applicants are residing. In the year 2010, the applicant no.1 wished to gift the said house to the respondent and expressed their desire before the respondent that in lieu of the gift deed of the house, the respondent will keep and maintain the applicants in all respects and will borne all their expenses of maintenance, medicine for whole life and the respondent also agreed to the same but in a clever and fraudulent manner and dishonestly, he got executed the sale deed of the said house in his name in place of gift deed/transfer of ownership deed though no consideration of the said sale deed ever passed/given to the applicant no.1 and even after getting the property in his name, the respondent never paid even a single penny to the applicants for their maintenance and refused and neglected to maintain them.

6. The respondent has placed on record a photo copy of agreement dated 06.09.2010 whereby, Bhupinder Singh agreed that he will not interfere in the share hold house in possession of his Bhabhi i.e. the wife of the respondent. He has further placed on record a certified copy of title of suit for injunction filed by Daljit Singh and his wife against Bhupinder Singh and applicant

no.1/Charan Singh against interference in the first floor of the house. He has also placed on record a copy of application dated 18.05.2020 filed by Charan Singh in the office of Deputy Commissioner, Ludhiana, for cancelling the deed dated 17.09.2010 on the ground that Charan Singh is not being maintained by the respondent. Several photographs allegedly of Charan Singh alongwith articles of sound and music have been shown in order to prove that the applicant no.1 is earning.

7. The applicants have placed on record a photo copy of their medical history/treatment, a copy of registered sale deed dated 17.09.2020 shown to have been executed by Charan Singh in favour of respondent/Daljit Singh. There is no proof of income, which is a matter of evidence for both the parties. No affidavit of income has been filed by both the parties. However, the respondent has not disclosed his income being Constable in CRPF, though he has denied his income to be Rs. 50,000/- per month. As such, the income of respondent can be estimated to be around Rs.50,000/- per month. Further, the maintenance is the moral and legal obligation of the son. It is upto the parents to seek maintenance from either or all of their children. As such, this court is of the considered opinion that the petitioners are held entitled to **Rs. 5,000/- each per month** from the respondent as **interim maintenance** from the date of application. Accordingly, the application in hand is allowed without expressing any opinion on merits of the case as aforesaid.”

4. In view of above this Court, does not find that there is any legal infirmity in the order warranting interference in the revision jurisdiction. Consequently, the present revision petition is dismissed.

5. However, the Family Court is directed to finally adjudicate the petition preferred by the respondents under Section 125 Cr.P.C. after taking evidence brought on record by the parties in accordance with law

expeditiously preferably within a period of six months from the date of receipt of certified copy of this order.

July 27, 2023	(PANKAJ JAIN)
Dpr	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No