

1

Date of decision:20.08.2024

2. Learned counsel for the petitioner has argued that the respondent (herein) is legally bound to maintain her as he is the father of the petitioner (herein). Though the mother of the petitioner (herein), along with whom the petitioner (herein) is living is also earning, but for the proper upbringing of the petitioner (herein); the respondent (herein), who is her



CRR(F)-56-2023

2

father, deserves to be fastened with liability to pay interim maintenance at the rate of Rs.25,000/- per month.

3. *Per contra*, learned counsel appearing for the respondent has argued that the petitioner is living with her mother who is well employed i.e. she is a government school teacher and is comfortably earning Rs.60,000/- per month & hence the petitioner (herein) does not require any amount of maintenance from the respondent (herein). It has been further submitted that in any case, the quantum of interim maintenance at the rate of Rs.10,000/- per month, to be paid by the respondent to the petitioner (herein) is on the higher side as the respondent (herein) is required to take care of his parental family as well. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be modified and reduced accordingly.

4. I have heard learned counsel for the rival parties and have perused the record.

5. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as ***Rajnish vs. Neha & Anr.: 2021(2) SCC 324***; relevant whereof reads as under:-

“II Payment of interim Maintenance

- (i) *The proviso to Section 24 of the HMA (inserted vide Act 49 of 2001 w.e.f. 24.09.2001), and the third proviso to Section 125 Cr.P.C., 1973 (inserted vide Act 50 of 2001 w.e.f. 24.09.2001) provide that the proceedings for interim maintenance, shall as far as possible, be disposed of within 60 days' from the date of service of notice on the contesting spouse. Despite the statutory provisions granting a time-bound period for disposal of proceedings for interim maintenance, we find that application remain pending for several years in most of the cases. The delays are caused by various*



factors, such as tremendous docket pressure on the Family Courts, repetitive adjournments sought by parties, enormous time taken for completion of pleadings at the interim stage itself, etc. Pendency of applications for maintenance at the interim stage for several years defeats the very object of the legislation.

(ii) *At present, the issue of interim maintenance is decided on the basis of pleadings, where some amount of guess-work or rough estimation takes place, so as to make a prima facie assessment of the amount to be awarded. It s often seen that both parties submit scanty material, do not disclose the correct details, and suppress vital information, which makes it difficult for the Family Courts to make an objective assessment for grant of interim maintenance. While there is a tendency on the part of the wife to exaggerate her needs, there is a corresponding tendency by the husband to conceal his actual income.*

74. *It has therefore, become necessary to lay down a procedure to streamline, the proceedings, since a dependant wife, who has no other source of income, has to take recourse to borrowings from her parents/relatives during the interregnum to sustain herself and the minor children, till she begins receiving interim maintenance.*

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(j) *The concerned Family Court /District Court/Magistrate’s Court must make an endeavour to decide the I.A. for Interim Maintenance by a reasoned order, within a period of four to six months at the latest, after the Affidavits of Disclosure have been filed before the court.*

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

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xxx xxx xxx xxx xxx”

6. Vide the impugned order passed by the Family Court, the

**CRR(F)-56-2023****4**

a decision upon the aspect (especially quantum) of interim maintenance, being result of some element of estimation, has to be construed accordingly, as the entitlement of the applicant (making a plea for grant of interim maintenance) cannot be based upon exact arithmetical calculations at such stage. The order granting interim maintenance, indubitably, is subject to final adjudication and it is a provisional step subject to final determination to be made on the conclusion of proceedings. In other words, the interim maintenance is only tentative & is subject to fixation of final maintenance.

7. The facts of the instant case reflect that vide the impugned order; the petitioner (herein), who is the daughter of the respondent, has been granted interim maintenance at the rate of Rs.20,000/- per month, out of which Rs.10,000/- was fastened upon the mother of the petitioner (herein) and Rs. 10,000/- was to be paid by the respondent - father (herein). It is borne out from the record that both i.e. the respondent and his wife, are Government teachers and are earning almost the same amount of salary i.e. about Rs.60,000/- per month. The amount of Rs.10,000/- per month, which has been directed to be paid by the respondent, vide the impugned order cannot be said to be on the lower side and is rather just appropriate. It is trite law that a parent, regardless of gender, who has adequate means is legally bound to maintain the child and it is the inescapable duty of the parents to take care of their child, if possessing adequate means. Both parents should assume equal responsibility in raising a child.

8. In view of the above, the interim maintenance granted by the Family Court does not call for any interference. Accordingly, the instant

petition is hereby dismissed.



9. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the Family Court shall proceed further, in accordance with law, without being influenced by them.
10. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

August 20, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No