



CRR(F)-80-2024
CRR(F)-293 -2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

130 (2-cases)

Date of decision: 16.12.2024

1. CRR(F)-80-2024

Dinesh Kumar		...Petitioner
	V/s	
Savita and others		...Respondents

2. CRR(F)-293 -2024

Savita and others		Petitioners
	V/s	
Dinesh Kumar		Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vishwajeet, Advocate for the petitioner
in CRR(F)-80-2024 and for the respondent
in CRR(F)-293-2024.

Mr. Sandeep Saini, Advocate for the respondents
in CRR(F)-80-2024 and for the petitioners in CRR(F)-293-2024

SUMEET GOEL, J. (Oral)

Vide this common order, the afore-said two revision petitions arising out of the common impugned order are being disposed off. For the sake of brevity, recitals/facts are being taken from CRR(F)-80-2024.

1. The instant revision petition has been preferred against the order dated 21.10.2023 passed by the Principal Judge, Family Court, Kurukshetra (hereinafter to be referred as ‘impugned order’) praying for setting-aside/modification of the quantum of interim maintenance awarded by the said order. Vide the impugned order; the respondents (wife and minor



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daughters) have been awarded interim maintenance at the rate of Rs.18,000/- per month (i.e. Rs.6,000/- per month each to the respondents i.e. wife and minor daughters from the date of application. The respondents had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and minor daughters of the petitioner (husband) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. Learned counsel for the petitioner-husband has iterated that the Family Court has committed a legal error by failing to consider cogent evidence and reliable documents while assessing the income of the petitioner. According to learned counsel, the Family Court has relied upon the unsubstantiated statements of the respondent-wife, who failed to provide evidence regarding the income of the petitioner. It has been further iterated that the Family Court has overlooked the fact that the petitioner has significant responsibilities, including caring for his ailing father and managing monthly expenses. Furthermore, the Family Court has failed to consider that the petitioner earns a monthly salary of Rs.71,643/-, out of which he incurs Rs.30,000/- in monthly expenses. Moreover, the petitioner has also purchased a plot in the name of the respondent-wife for Rs.28,00,000/- and is currently paying monthly instalments of Rs.25,089/-. Learned counsel asserts that the Family Court has disregarded the willingness of the petitioner to reconcile and reside with the respondent-wife which is hindered by the alleged cruel and unreasonable behaviour of the respondent-wife. It has been argued that the respondent is a highly qualified



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earning her livelihood and maintain herself, it is unjust to impose an undue financial burden on the petitioner. According to learned counsel, the impugned order granting interim maintenance to respondent-wife is wholly unjust and incorrect as despite being the legally wedded wife of the petitioner, she voluntarily left the company of the petitioner. Learned counsel has further argued that, in any case, the Family Court has adopted a wholly wrong approach while granting the quantum of interim maintenance and hence it has been prayed that the quantum of interim maintenance awarded vide impugned order be set-aside.

3. *Per contra*, learned counsel for the respondents has iterated that the learned Family Court though has determined the quantum of maintenance based on the facts and circumstances of the case but the same deserves to be enhanced by taking into consideration the earning capacity as well as financial status of the petitioner, who is earning handsomely. Learned counsel has further iterated that the petitioner is working as TGT Sanskrit teacher with a monthly salary of Rs.90,000/- approximately. Furthermore, the Family Court did not consider that the respondent-wife alongwith her minor daughters, is leading a difficult life, as both the minor daughters are living with the respondent-wife and both of them are studying which further increases the financial burden on the respondent-wife. Furthermore, the cost of education and associated expenses continues to rise with each passing day, placing an additional financial strain on the respondent-wife. Given these circumstances, learned counsel prays that the quantum of interim maintenance awarded vide impugned order is inadequate



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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 **Rajnesh 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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xxx xxx xxx xxx xxx

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;

xxx xxx xxx xxx xxx
xxx xxx xxx xxx xxx”

6. Vide the impugned order passed by the Family Court, the aspect of interim maintenance has been decided. It goes without saying that 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 at the conclusion of proceedings. In other words, the interim maintenance is only tentative & is subject to fixation of final maintenance.

7. Indubitably, the factum of marriage as also the birth of respondent Nos.2 and 3 (minor daughters), born out of the wedlock, is not in dispute. The facts of the instant case reflect that vide the impugned order; the respondents, who are the wife and the minor daughters of the petitioner-husband, have been granted interim maintenance at the rate of Rs.6,000/- per



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month each. While going through the impugned order, it transpires that both the parties have submitted their affidavits in terms of the judgment passed by Hon'ble Supreme Court in the case of **Rajnesh** case (supra). In her affidavit of assets and liabilities, the respondent-wife has asserted that she has no source of income. In contrast, the petitioner-husband has contended that she is an educated woman capable of earning a sufficient livelihood but he has failed to produce any evidence on record to substantiate this claim. Furthermore, the respondent-wife (herein) has alleged before the Family Court that the petitioner-husband (herein) earns approximately Rs.1,20,000/- per month, consisting of a salary of Rs.90,000/- as TGT Sanskrit teacher and an additional income of Rs.30,000/- from a kiryana store. Conversely, the petitioner-husband (herein) has admitted before the Family Court that he is employed as a TGT Sanskrit teacher with a net monthly salary of Rs.71,643/- but denies any earnings from a Kiryana store. However, there is no concrete evidence on record to establish the alleged additional income of Rs.30,000/- from the Kiryana store, as claimed by the respondent-wife. The petitioner-husband has also alleged that the respondent-wife owns a 4 marla plot and a house, both of which he claims were purchased in her name by him. During the course of proceedings before the Family Court, the respondent-wife admitted ownership of the aforesaid properties but clarified that the plot is vacant and generates no income. Regarding the house, it was submitted by the respondent-wife (herein) that the petitioner-husband himself resides in it and continues to pay its loan installments. After thoroughly examining the case record, submission from the rival parties and



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husband (herein) to pay the amount of interim maintenance to the respondents (herein) as indicated hereinabove.

8. It is apt to mention herein that the husband has both a moral and legal obligation to provide financial support to his wife unless there are substantial legal grounds to deny her maintenance. Furthermore, it is trite law that the duty to maintain one's wife and the minor children is a personal and statutory obligation under Section 125 of the Code of Criminal Procedure, irrespective of other financial liabilities, unless demonstrated to be insurmountable. It has been consistently held that the financial responsibility of a husband towards his wife and children is paramount, and wife and children cannot be left destitute merely because the husband has other financial commitments. Moreover, the contentions raised by the learned counsel for the parties in the present two petition(s) that the respondent-wife, who is highly qualified has sufficient source of income to maintain herself and the minor daughters or the Family Court has grossly erred in computing the income as also other financial liabilities of the petitioner-husband, are in-fact, a matter of trial and the same cannot be ratiocinated upon by this Court at this stage. The same can be properly examined and adjudicated upon once evidence is adduced by both the parties. Moreover, the impugned order is only an interim measure in nature and not a final decision of the maintenance petition. The amount of maintenance awarded is always subject to the adjustment which will depend on the final outcome of the maintenance petition filed by the respondent/wife. In the instant case, the amount of interim maintenance,



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the impugned order cannot be said to be on the higher/lower side and is rather just and appropriate in the facts/circumstances of the present case.

9. In view of the above, the interim maintenance granted by the Family Court does not call for any interference. Accordingly, both the petitions are hereby dismissed.

10. Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the Family Court shall proceed further, in accordance with law, without being influenced therefrom.

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

(SUMEET GOEL)
JUDGE

December 16, 2024
Ajay

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