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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR(F)-134-2024 (O&M)

Date of decision: 28.11.2024

Tania Dua

...Petitioner

V/s

Abhinav Dua

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ojas Bansal, Advocate for the petitioner.

Mr. Ishan Gupta, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 09.11.2023 passed by the learned Additional Principal Judge, Family Court, Jalandhar (hereinafter to be referred as 'impugned order') praying for modification of the said order and consequently enhancing the quantum of interim maintenance awarded by the said order. Vide the impugned order; the petitioner-wife (herein) has been awarded interim maintenance at the rate of Rs.5,000/- per month from the date of the filing of the application. The petitioner (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that she is the wife of the respondent-husband (herein) and is unable to maintain herself and hence the interim maintenance ought to be awarded to her.

2. Learned counsel appearing for the petitioner has iterated that the learned Family Court has erred in determining the quantum of interim maintenance awarded to the petitioner-wife (herein) insofar as the income of the respondent-husband is concerned. It has been further iterated that the

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petitioner-wife (herein) is unable to maintain herself as she lacks any source of income and is entirely dependent on her parents for her livelihood. According to the learned counsel, the respondent-husband is financially capable of supporting the petitioner-wife (herein) as he is well qualified and actively engaged in the iron and steel trading business. It has been further submitted that the respondent-husband operates two firms, namely M/s Shri Lal Ji Traders and Shri Lal Ji Enterprises, earning over Rs.03.00 lacs per month. It has been further argued that the petitioner-wife, has no independent source of income and on account of paltry sum awarded by the Family Court, the petitioner-wife is struggling to meet even the basic necessities of life. Learned counsel has further submitted the recurring costs have escalated significantly due to inflation and increasing living costs, making it impossible for the petitioner to manage on an awarded amount of interim maintenance. Learned counsel has argued that the maintenance amount awarded is insufficient to sustain a decent and respectable living standard for the petitioner and hence the quantum of interim maintenance be modified and enhanced suitably.

3. *Per contra*, learned counsel for the respondent has argued that the Family Court, while granting the interim maintenance to the petitioner, has completely ignored the materials placed on record before it. It has been further argued that the petitioner has sufficient source of income to maintain herself as she herself is an Advocate by profession and earning handsomely. It has been further iterated that the petitioner has herself withdrawn from the company of the respondent-husband without any justifiable and reasonable cause. Hence, dismissal of the instant petition has been prayed for.



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;

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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 relationship between the parties is not in dispute. The facts of the instant case reflect that vide the impugned order; the petitioner, who is the wife of the respondent, has been granted interim maintenance at the rate of Rs.5,000/- per month from the date of application.

While going through the impugned order, it transpires that both the parties



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their affidavits with regard to disclosure of their respective incomes, assets and liabilities in terms of the judgment of the Hon'ble Supreme Court titled as ***Rajnesh*** case (supra). The petitioner-wife (herein), in her affidavit of disclosure of assets and liabilities filed before the Family Court, has disclosed that she is holding a BBA (LLB) degree but has no source of income. She claimed her monthly expenditure to be Rs.35,000/- and stated that she is currently residing at her parental home. She has further contended that the respondent-husband (herein) is a man of substantial means as he is engaged in the iron and steel trading business under the names of M/s Shri Lal Ji Traders and M/s Shri Lal Enterprises, both located on Amloh Road, Mandi Gobindgarh. Furthermore, the respondent-husband is well-qualified, having completed B.A. and LLB and is a member of the Bar Association. She has further alleged that the respondent-husband owns multiple immovable properties, including a double story office at Motia Khan under the name M/s Shri Lal Ji Enterprises, a 5 marla plot at Kundra Street, Khanna, and three additional plots in Khanna and is leading a lavish lifestyle with a monthly income exceeding Rs.3,00,000/-. Conversely, the respondent-husband, in his affidavit of disclosure of income, assets and liabilities, has stated that he is an LLB graduate working as a Junior Advocate, earning only Rs.13,381/- per month. He has further alleged that the petitioner-wife (herein) is also an advocate by profession, earning between Rs.25,000/- to Rs.30,000/- per month. However, the respondent-husband has not been able to produce any documentary evidence to substantiate his claims. Accordingly, the Family Court has held that there is no evidence on record to suggest that the petitioner-wife is financially

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capable of supporting herself and hence the respondent-husband is obligated to provide financial support to her. Accordingly, an amount of Rs.5,000/- per month, was directed to be paid by the respondent-husband (herein) by the Family Court vide the impugned order.

8. It is trite law that the financial capacity of the husband and the needs of the wife must be balanced in determining the quantum of maintenance, ensuring that the wife is not subjected to financial hardship. In the considered opinion of this Court, the wife is entitled to maintenance in a manner befitting the standard of living she as accustomed to during her marital life, subject to the financial capabilities of the husband. It is both the legal and moral duty of the husband to provide adequate maintenance to his legally wedded wife, ensuring she has sufficient means to meet her basic necessities of life. The respondent-husband, in his reply and affidavit filed before the Family Court, has unequivocally admitted the factum of the marriage with the petitioner-wife. Furthermore, as an able-bodied and educated individual, the respondent-husband is under a moral and legal obligation to maintain his wife, who is unable to sustain herself during the pendency of the present proceedings. Considering the socio-economic status of the parties, the rising cost of living and the escalating expenses for basic necessities such as food, shelter, clothing, medical care and other contingencies, it is evident that the petitioner-wife requires a reasonable amount to maintain herself with dignity and hence the current interim maintenance amount should be increased.

8.1. It is apt to mention herein that the husband has both a moral and legal obligation to provide financial support to his wife, regardless of her

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professional qualifications, unless there are substantial legal grounds to deny her maintenance. The educational qualifications of a wife cannot be a valid ground to deny her maintenance under Section 125 of the Code of Criminal Procedure, 1973. The essential criterion for awarding maintenance is not the academic qualifications of the wife but her actual ability to sustain herself and meet her reasonable expenses. Even if a wife is educationally qualified, it does not necessarily imply that she is financially independent or capable of earning her livelihood. Factors such as availability of employment opportunities, societal conditions, care giving responsibilities, or health issues may impede her ability to secure gainful employment. A profitable reference in this regard may be made to the judgment of this Court in case titled as ***Divesh Sapra vs. Latika Sapra and another: Neutral Citation No.2024: PHHC134617***, relevant whereof reads as under:-

"10. The next argument advanced on behalf of the husband to contend that the wife being professionally qualified cannot be expected to sit idle and as such she is not entitled to seek maintenance is again liable to be rejected as being misconceived. The wife merely by virtue of being educationally qualified cannot be held disentitled to seek maintenance, until and unless it is proved that she being professionally qualified, having taken up a profession, has given up on such profession, just for the sake of seeking maintenance. In the present case, it is not the case of the husband that the wife was working and earning after the marriage prior to her filing the present petition for grant of maintenance."

Therefore, the bald assertions made by the husband regarding the educational qualifications of the respondent-wife, without adducing substantive evidence to establish that she is gainfully employed, hold no legal significance. The burden of proof lies upon the husband to demonstrate that the wife has independent income or employment, particularly when she



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has explicitly averred in her affidavit that she is neither employed nor earning any income.

9. In light of the circumstances as enumerated hereinabove as also taking into account the substantial increase in recurring costs due to inflation, this Court finds merit in the present petition. Consequently, the instant petition is hereby allowed and the impugned order dated 09.11.2023 passed by the learned Additional Principal Judge, Family Court, Jalandhar is modified to the extent that the respondent-husband (herein) shall pay to petitioner-wife (herein) a sum of Rs.10,000/- per month from the date of filing of the petition.

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

November 28, 2024
Ajay

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