

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

112

CRR(F)-141-2024(O&M)

Date of Decision: February 01, 2024

Pranay Mahajan

.....Petitioner(s)

Vs.

Rajmandeep Kaur and another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vivek Salathia Advocate
for the petitioner(s).

SUDEEPTI SHARMA J. (ORAL)

The petitioner has challenged order dated 04.11.2023 passed by Ld. Principal Judge, Family Court, Amritsar in case bearing No.MNT125/221/2021, titled as ***Rajmandeep Kaur and another Vs. Pranav Mahajan***, whereby no interim maintenance was granted to respondent No.1 whereas respondent No.2 (minor son) was granted maintenance to the tune of Rs.12,000/- per month from the date of filing of application till the disposal of the main petition.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner-husband is ready to share the amount of maintenance, which has been granted by the Court below. He further contends that the respondent No.1-wife is working as Assistant Commissioner in GST and earning monthly income to the tune of Rs.82,000/-.He submits that the amount of

maintenance to the tune of Rs.12,000/- per month should be shared by the respondent No.1-wife also.

3. Learned counsel for the petitioner has relied upon para 11 and 12 of the judgment passed by Hon'ble the Apex Court in Civil Appeal No.2462 of 1999, decided on 28.03.2000 titled as ***Padmja Sharma Vs. Ratan Lal Sharma***, which is reproduced as under:-

“11. In the present case both the parents are employed. If we refer to the first application filed under Section 26 of the Act by the wife she mentions that she is getting a salary of Rs. 3,100/- per month and husband is getting a salary of Rs 5.850/- per month. She is, therefore, also obliged to contribute in the maintenance of the children. Salaries of both the parents have since increased with the course of time. We believe that in the same proportion, may be perhaps in the case of an employee of Reserve Bank of India at somewhat higher rate. If we take approximate salary of husband is twice as much as that of the wife, they are bound to contribute for maintenance of their children in that proportion. Family Court has already fixed a sum of Rs. 250/ per month for each of the child under Section 125 of the Code. That amount we need not touch.

12 Considering the overall picture in the present case we are of the view that a sum of Rs. 3,000 per month for each of the child would be sufficient to maintain him, which shall be borne by both the parents in the proportion of 2:1. We, therefore, direct that respondent shall pay a sum of R 2,000/- per month for each of the two children aforementioned from October 4, 1997, the date of the order of the Family Court. For the earlier period respondent shall pay Rs 500/- per month for each of the child from the date of the application, i.e, August 2,

1991 and @ Rs. 1,000/- per month from the date of the second application, which is October 27, 1995 and @ Rs. 1,500/- per month from the date of the third application, which is October 27, 1995 and @ Rs. 1,500/- per month from the date of the third application, which is August 26, 1997. These amounts shall be apart from the amount which the respondent has already been paying to the children @ Rs 250/ per month under Section 125 of the Code. Respondent shall be entitled to make adjustment of the amounts which he has already paid under orders of the Family Court, High Court or the interim order of this Court.”

3(a) He has further placed reliance on judgment passed by Hon’ble Uttarakhand High Court in Criminal Revision No.133 of 2013, decided on 09.08.2023 titled as ***Smt.Anshu Gupta Vs. Adwait Anand @ Devansh***, reported in **2023(3) Crimes-567**. The relevant portion of the same is reproduced as under:-

“16. In order to appreciate the argument advanced on behalf of the revisionist, the provisions of [Section 125 \(1\) Cr.P.C.](#) is quoted hereunder:-

"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) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct."

17. The provisions of [Section 125 \(1\) Cr.P.C.](#) makes it clear that the liability to maintain a minor child is always on "any person", if he has sufficient means neglects and refuses to maintain a minor child and such "person" is directed to give the monthly allowance as maintenance at the rate deemed fit to the Magistrate. "

4. I have heard learned counsel for the petitioner and perused the impugned order dated 04.11.2023 as well as the judgments relied upon by learned counsel for the petitioner and conclude as under:-

5. Brief facts of the case are that the marriage of the petitioner and respondent No.1 was solemnized on 12.10.2019 and out of their wedlock, a son was born, who is presently residing with respondent No.1.

6. A perusal of the impugned order shows that the petitioner deserted respondent No.1 and she was forced to leave the matrimonial house after a period of 40 days from the date of birth of the minor child and since then she is residing in her parental house and looking after the child and bearing all the expenses on her own. A perusal of the impugned order further shows that the petitioner is running a medical laboratory and is earning more than Rs.3 lacs per month. After observing that respondent No.1 is working as Assistant Commissioner at GST and her monthly income is to the tune of

Rs.82,000/-, the Court below denied the maintenance to respondent No.1 but respondent No.2 i.e. minor son was granted maintenance to the tune of Rs.12,000/- per month from the date of filing of application till the disposal of the main petition alongwith Rs.3000/- litigation expenses as well. This Court does not find any infirmity in the impugned order since it is moral as well as legal obligation of the father to maintain the child. The mother was forced to leave the matrimonial house as she was deserted by the petitioner and since then, she is bearing all the expenses of the child. It is not only the financial burden that is to be borne by the parents but there are other responsibilities also towards the minor child, which should be borne by both the parents. In the present case, respondent No.1 is looking after the child (minor son) since his birth and taking care of not only financially needs but also bringing him up by devoting time towards all his needs.

7. Therefore, contention of learned counsel for the petitioner that financial burden to the tune of Rs.12,000/- per month should be shared by respondent No.1(wife), is rejected since the petitioner is not looking after his son. Further it is easy to pay the money or to give maintenance in the shape of money but it is practically and actually very difficult to bring up the children.

8. So far as the judgment **Padmja Sharma (supra)** is concerned, this is a case where marriage of both the parties was dissolved by decree of divorce and custody of children was given to the mother. She moved an application under Section 125 Cr.P.C . for maintenance and she was granted a sum of Rs.250/- per month for each of the child. After that she moved an application under Section 26 for enhancement of the maintenance granted to the children on the ground that salary of the husband has increased. Since in

that application, it was observed that she is also earning, therefore, this view was taken by Hon'ble the Apex Court that both the parents should share the financial burden of the child. The facts and circumstances of the present case are distinguishable as discussed above.

9. So far as the judgment *Smt. Anshu Gupta (Supra)* is concerned, the Uttarakhand High Court held that the liability to maintain a minor child is on any person if he has sufficient means.

10. Both the judgments do not support the case of the petitioner and in view of the discussion made hereinabove, I do not find any infirmity in the impugned order dated 04.11.2023. Hence, the present petition is hereby dismissed and the impugned order is affirmed.

11. All pending applications, if any, stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

February 01, 2024
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Whether speaking/reasoned:	Speaking
Whether reportable:	Yes / No