

CRR(F)-162-2023

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR(F)-162-2023

Date of decision: 2nd May, 2024

Shallu and another

...Petitioner(s)

Versus

Rajesh Kumar

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Jai Singh Yadav, Advocate for the petitioners.

MANISHA BATRA, J (ORAL):-

The present revision petition has been filed by the petitioner for modification in the order dated 21.12.2022 passed by learned Principal Judge, Family Court, Rewari in maintenance petition No. MNT-537/2019 titled as 'Shallu and another Vs. Rajesh Kumar' whereby the learned Family Court had directed respondent No.2 to pay an amount of Rs. 15,000/- per month to petitioner No.1 and Rs. 10,000/- per month to petitioner No.2 as arrears of interim maintenance.

2. Brief facts of the case relevant for the purpose of disposal of this revision petition are that the aforementioned petition has been filed by the petitioner for herself as well as on behalf of minor son i.e. petitioner No.2 by submitting that she got married with the respondent as per hindu rites and ceremonies on 29.04.2015. The petitioner No.2 was born out of the wedlock on 22.05.2016. She alleged that the respondent and his family

members were not satisfied with the dowry articles given at the time of her marriage and some time after the marriage, they started demanding more dowry and cash amount of Rs. 10,00,000/- . She was constantly harassed due to non-fulfillment of the demands so raised by them. She was extended merciless beatings in the month of December, 2015 and was thrown out of her matrimonial house and it was on assurance of her father-in-law and some other respectable persons of the village of her in-laws that she went back to her matrimonial house on 27.03.2016. However, the respondent and his family members continued the same behaviour and even tried to burn her alive by keeping the nob of gas cylinder on, on 30.03.2016. The petitioner No.1 somehow managed to save herself on that day. She was compelled to leave her matrimonial home along with her minor child. She was having no source of income and was unable to maintain herself and minor petitioner No.2. While claiming that the respondent was fetching monthly salary of Rs. 80,000/- as he was serving in Punjab National Bank, she prayed for directing him to pay maintenance to the tune of Rs. 30,000/- per month to them.

3. The respondent resisted the claim of the petitioners by filing written statement and taking several preliminary objections and by alleging that petitioner No.1 was guilty of her own wrong acts and conduct. She herself had left her matrimonial house. The allegations as levelled by her were false and fabricated. Rather she had made the life of the respondent a living hell due to her cruel acts and deeds. Therefore, it is prayed that the petition was liable to be dismissed.

4. Both the parties were given opportunity to lead evidence and led oral as well as documentary evidence. After going through the evidence so produced on record and considering the contentions as raised by both the sides, the learned Family Court gave directions to respondent to pay amount of maintenance as mentioned above.

5. The petitioners being dissatisfied by the amount of maintenance so directed to be paid to them, have filed the present revision petition by arguing that the impugned order is liable to be set aside as the maintenance amount of Rs. 15,000/- and Rs. 10,000/- per month respectively which is directed to be paid to them is not sufficient for meeting with their day to day requirements of food, lodging, clothing, medicine etc and as well as educational expenses of petitioner No.2. It is argued that the respondent is now posted as Senior Manager in Punjab National Bank and in the year 2021, his salary was more than Rs. 1,19,868/- which had now increased to Rs. 1,50,000/-. He has no other liabilities except that of the petitioners. The petitioner No.2 is studying in a reputed public school at Rewari and it is his maternal grandfather who is bearing his expenses. Substantial amount of money is required to be spent for the purpose of his admission fee, tuition fee and extra curricular activity and other expenses and the education of the minor petitioner No.2 itself is costing more than Rs. 15,000/- per month to petitioner No.1. Therefore, it is also argued that the amount of maintenance as directed to be paid to the petitioners deserves to be enhanced and at least 2/3 income of the respondent ought to have been directed to be paid as maintenance. With these broad submissions, it is urged that the revision

petition be allowed, the impugned order be modified and amount of maintenance be enhanced.

6. I have heard learned counsel for the petitioner at considerable length and have gone through the record carefully.

7. The petitioners are wife and minor child respectively of the respondent and as revealed from the impugned order, they are living separately from him since the year 2016. It has also been revealed from the impugned order that at the time of passing of the same, the respondent who is a bank employee was fetching gross monthly income of Rs. 1,19,868/- per month in the year 2021. His net income was assessed to be Rs. 84,000/- per month. Hon'ble Supreme Court in an authoritative pronouncement cited as '*Rajnesh v. Neha & Ors. : 2021 (2) SCC 324*' has laid down various guidelines for determining the quantum of maintenance by observing that the objective of granting interim/permanent alimony is to ensure that the dependant spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependant children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for

nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. It has also been well settled that the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications. Reliance can also be placed upon '*Manish Jain vs. Akanksha Jain : (2017) 15 SCC 801*', wherein Hon'ble Supreme Court had observed that the maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife and the child are able to maintain themselves with reasonable comfort.

8. The petitioners who are wife and minor child respectively of the respondent have been directed to be paid interim maintenance to the tune of Rs. 15,000/- and Rs. 10,000/- per month respectively by the respondent. The learned Family Court had assessed the carry home salary of the respondent to be Rs. 84,000/- in the year 2021 i.e. during the pendency of the petition

and had assessed the above mentioned amount while considering the same to be reasonable amount. The petitioners are seeking enhancement in this amount on the ground that now the salary of the respondent is more than Rs. 1,50,000/- per month. This cannot be considered to be a ground for seeking enhancement due to the reason that the learned trial Court had passed the impugned order, while taking into account the income of the respondent during the pendency of the petition and by an interim measure. It is for the petitioners to lead evidence before the Family Court to prove the exact income of the respondent as the main petition is still pending. The amount which had been directed to be paid to the petitioners is reasonable one and cannot be stated to be meagre rather the same is just and proper. As such, I see no reason to interfere with the order as passed by learned Family Court which is well reasoned and had been passed while taking into consideration all the facts and circumstances of the case. Accordingly, the present revision petition is dismissed.

9. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

2nd May, 2024
Parveen Sharma

- | | | |
|-------------------------------|---|-----|
| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |