



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

114

CRR(F)-119-2022 (O&M)

Date of decision: 25.09.2024

Tejvarinder Singh

...Petitioner

V/s

Gurmail Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Dr. Rau P.S. Girwar, Advocate with
Ms. Archana Puhanian, Advocate for the petitioner.
Mr. H.S. Jalal, Advocate for respondents.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 14.12.2021 passed by the Principal Judge, Family Court, Bathinda (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondents (herein) have been awarded interim maintenance at the rate of Rs.10,000/- per month (i.e. Rs.5,000/- per month each to the respondents (wife and minor daughter) alongwith the litigation expenses of Rs.5000/- to be paid by the petitioner (herein) from the date of application.
2. Learned counsel for the petitioner has argued that the Family Court has overlooked the fact that the petitioner is working on contractual basis under Centre Government scheme MGNREGA as a Computer Assistance and drawing a meager salary of Rs.19,488/- per month. Learned counsel has submitted that after the deduction of interim maintenance amount, which is 54% of the gross salary of the petitioner, there is a very meager amount left for him which has led to a situation where he cannot



meet his own basic needs causing undue financial hardship. Furthermore, the petitioner has the responsibility of taking care of his elderly widow mother to whom he is contributing Rs.2,000/- per month towards her medical expenses. According to the learned counsel, the Family Court did not consider that the respondent No.1, being a well educated lady having done M.A., B.Ed, TET qualified and was previously employed as a teacher. Despite her educational qualification, she has intentionally chosen not to seek employment and is willfully dependent on the petitioner. It has been argued that the quantum of interim maintenance awarded is excessive and arbitrary and is based on surmises and conjectures. Learned counsel has further argued that the maintenance allowance is generally restricted to one-third of the income but in the instant case, the amount awarded far exceeds this statutory limit which clearly reflects that the impugned order was based on wrong assessment of the salary 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 the same has been erroneously fastened upon the petitioner. Thus, it has been prayed that the instant petition be accepted and the impugned order be set-aside.

3. *Per contra*, learned counsel for the respondents has argued that the learned Family Court has rightly allowed the application seeking interim maintenance as the respondent-wife neither has any source of income to maintain herself and her minor daughter nor any movable or immovable property in her name. Furthermore, the Family Court has determined the quantum of maintenance based on the calculation of the income of the



respondent No.2 (minor daughter) as also taken due consideration of the relevant facts and circumstances of the case. Thus, it has been prayed that the present petition be dismissed.

4. I have heard learned counsel for the 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 is 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 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 is, indubitably, 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. Relationship between the parties is not in dispute and it is also admitted that the respondent-wife alongwith the minor daughter are not living in the matrimonial home. The facts of the instant case reflect that vide the impugned order; the respondents (herein), who are the wife and minor daughter of the petitioner, have been granted interim maintenance at the rate



The plea of the petitioner-husband that he does not possess sufficient source of income *ipso facto* does not absolve him of his moral duty to maintain his wife and minor child. The learned Family Court has found that though the respondent No.1-wife is qualified and indeed has the potential to pursue gainful employment but her primary obligation, at this stage, is the upbringing and care of her daughter, which limits her ability to seek employment. The Family Court further recognizes that taking care of a minor daughter as young as five years, is a full time commitment which requires constant attention and supervision. The Family Court further observed that the duties of respondent No.1-wife as a mother take precedence and it would be unjust to expect her to leave her child unattended or compromise the child's well being for the sake of earning a livelihood. The petitioner (herein)-husband, should carry the moral and legal responsibility to provide financial support for both his wife and daughter (respondents herein). It, thus, holds that the burden of maintenance cannot be shifted onto the wife under such circumstances and must rest primarily with the husband (petitioner herein). Moreover, the petitioner-husband has not placed on record any document to show that the respondent No.1-wife has any specific income from any particular source in her individual capacity. The contentions raised by learned counsel for the petitioner in the present petition with regard to factual aspect, are matter of trial and no comment on the same can be made at this stage. The same can be ascertained only after adducing evidence by the parties. It is also apparent from the record that the order under challenge is only interim in nature and not a final decision of the maintenance petition. The amount



depend on the final outcome of the maintenance petition filed by the respondent/wife.

7.1 Considering the facts and circumstances of the case, income of the petitioner; status of the parties; their standard of living and requirements of the wife-respondent No.1 and her minor daughter-respondent No.2, the amount of Rs.10,000/- per month, which has been directed to be paid by the petitioner (herein), vide the impugned order cannot be said to be on the higher side and is rather just and appropriate in the facts/circumstances of the case.

8. In view of 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 with them.

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

(SUMEET GOEL)
JUDGE

September 25, 2024
Ajay

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