



CRR(F)-215-2024
CRR(F)-665-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

103

Date of decision: 22.11.2024

1. CRR(F)-215-2024

Gagandeep Kaur and another

....Petitioners

V/s

Avtar Singh

....Respondent

2. CRR(F)-665-2024

Avtar Singh

....Petitioner

V/s

Gagandeep Kaur and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Chandan Singla, Advocate for the petitioners
in CRR(F)-215-2024 and for respondent Nos.1 and 2
in CRR(F)-665-2024.

Mr. Parveen Jain, Advocate for the respondents
in CRR(F)-215-2024 and for the petitioner
in CRR(F)-665 -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)-215 -2024.

1. The instant revision petition has been preferred against the
order dated 11.10.2023 passed by the Principal Judge, Family Court, Mansa
(hereinafter to be referred as ‘impugned order’) praying for
modification/setting-aside of the quantum of interim maintenance awarded



CRR(F)-215-2024
CRR(F)-665-2024

2

by the said order. Vide the impugned order; the petitioners (wife and minor son) have been awarded interim maintenance at the rate of Rs.22,000/- per month (i.e. Rs.12,000/- per month to petitioner No.1-wife and Rs.10,000/- per month to petitioner No.2 (minor son) from the date of the application. The petitioners (wife and minor son) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and minor son, respectively, of the respondent (husband) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. Learned senior counsel appearing for the petitioner-wife has iterated that the Family Court has overlooked the fact that the petitioner-wife has no substantial source of income as she is a household lady and hence entitled for reasonable maintenance. Learned senior counsel has further iterated that the petitioners are unable to maintain a minimal standard of living without just and sufficient interim maintenance amount. It has been argued by the learned senior counsel that the Family Court has failed to take into consideration that the respondent-husband is a practicing Advocate at the Punjab and Haryana High Court and is earning a substantial income. Additionally, the respondent-husband owns 30 killas of land, a flat in Zirakpur, and a house in Sunam. In contrast, learned senior counsel has submitted that the petitioner-wife is a homemaker with no independent source of income. According to the learned counsel, the petitioner No.2-minor son resides with petitioner No.1-wife and both are entirely dependent on the parents of petitioner-wife. The father of the petitioner-wife is an old



CRR(F)-215-2024
CRR(F)-665-2024

3

aged person, a diabetic patient and also suffering from various health issues. It has been further urged that the learned Family Court has failed to consider that the school fee for petitioner No.2-minor son alone amounts to Rs.29,600/- excluding other necessary expenses. Thus, the interim maintenance awarded to the petitioners is insufficient and makes it exceedingly difficult for petitioner No.1-wife to meet the overall expenses of petitioner No.2-minor son. Learned senior counsel has further iterated that the school fee of petitioner No.2 is currently being borne by the father of petitioner No.1. Furthermore the awarded interim maintenance does not take into account other essential costs, such as transportation, healthcare and daily living expenses, which are indispensable for the well-being and upbringing of the minor child i.e. petitioner No.2. The meagre amount of interim maintenance granted creates a financial strain on the petitioner No.1-wife, making it impractical to ensure a reasonable standard of living for the minor child and hence the quantum of interim maintenance awarded vide impugned order is inadequate. Learned counsel has further submitted that the recurring costs have increased significantly due to inflation and increasing living costs, making it impossible for the petitioners to manage on a meagre amount of interim maintenance granted by the learned Family Court. It has been further argued that while passing the impugned order, the Family Court ought to have considered the provisions of Section 125 of Cr.P.C. with a very pedantic approach which are meant for the benefit of the destitute wife and minor child. Hence, it has been prayed that the Family Court has adopted a wholly unpragmatic approach which has caused



CRR(F)-215-2024
CRR(F)-665-2024

4

substantial injustice to the petitioners. Thus, it has been prayed that the impugned order is liable to be modified and enhanced accordingly.

3 *Per contra*, learned counsel for the respondent-husband has argued that the Family Court, while granting the interim maintenance to the petitioners, has completely ignored from consideration the materials placed on record before it. Learned counsel has further argued that the petitioner-wife has deserted the respondent-husband without any reasonable cause. It has been further argued that the respondent-husband has expressed his willingness to reconcile with the petitioner-wifemany times but she has flatly refused to live and cohabit with the respondent-husband. Learned counsel has further argued that the respondent-husband has also filed a petition under Sections 7, 8, 10 and 12 of the Guardian and Wards Act seeking permanent custody of the minor child as well as the visitation rights. In the reply to the said petition, the petitioner-wife has herself admitted that her father is the owner and in possession of 25 killas of land in village Narinderpura, Tehsil and District Mansa and he is maintaining both the petitioners whereas respondent-husband owns only 4 killas of land. Moreover, the monthly income of the respondent-husband is only Rs.9800/- which is almost entirely consumed by his expenses. Learned counsel has further argued that, in any case, the Family Court has adopted a wholly wrong approach while assessing the quantum of interim maintenance and the same has been erroneously fastened upon the respondent. Hence, it has been prayed that the impugned order be set-aside/quashed.



CRR(F)-215-2024
CRR(F)-665-2024

5

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 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.*



CRR(F)-215-2024
CRR(F)-665-2024

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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, 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. The factum of marriage as also the birth of petitioner No.2 (minor son), born out of the wedlock, is not in dispute. The facts of the instant case reflect that vide the impugned order; the petitioners, who are the wife and the minor son of the respondent-husband, have been granted



CRR(F)-215-2024
CRR(F)-665-2024

7

interim maintenance at the rate of Rs.22,000/- per month (i.e. Rs.12,000/- per month to petitioner No.1-wife and Rs.10,000/- per month to petitioner No.2 (minor son) from the date of the application. While going through the impugned order, it transpires that both the parties (i.e. the petitioner-wife and the respondent-husband), have placed on record the affidavits with regard to the disclosure of their respective incomes, assets and liabilities in terms of the judgment of the Hon'ble Supreme Court titled as ***Rajnesh*** case (supra). Upon careful examination of the affidavit submitted by the petitioner-wife (herein), the Family Court held that she holds a B.A. degree but is not earning any income. Furthermore, she is not receiving the maintenance under any other legal provision and she has the sole custody of her minor child and hence is responsible for fulfilling all the basic needs, including food, clothing and other necessities of petitioner No.2-minor son. Besides, the petitioner-wife has further asserted in her affidavit that she does not own any immovable property. Conversely, the affidavit filed by the respondent-husband before the Family Court, indicates that he has completed his B.A., LLB degree and claims his monthly income to be Rs.9,800/-, which is entirely expended on his needs, leaving him with no liquid amount. The respondent-husband has alleged that petitioner-wife is earning a substantial income from 20 acres of agricultural land owned by her father in village Narinderpura, District Mansa, where she resides. However, no documentary evidence has been provided to substantiate the claim of her income.

7.1. The relationship between the parties is undisputed and it is a fundamental legal obligation of the respondent-husband to provide



CRR(F)-215-2024
CRR(F)-665-2024

8

maintenance to his wife and the minor child, if they are unable to sustain themselves. The petitioner-wife is currently unemployed and has been burdened with the responsibility of caring for her minor child due to the matrimonial discord. Although the respondent-husband has alleged that the petitioner-wife has sufficient financial means, including income from ancestral joint coparcenary property, he has failed to produce any documentary proof to establish the quantum of her income. On the other hand, the respondent-husband has admitted to be practicing as an advocate and owning 03 acres of land. Indubitably, the contentions raised by the learned counsel for the parties in the present two petitions that the petitioner-wife has sufficient income to maintain herself and the minor son or the respondent-husband has sufficient source of income, are in fact, matter of trial and hence the same cannot be ratiocinated upon at this stage. The same can be ascertained only after adducing evidence by the parties. Moreover, the impugned order is only 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 petitioner/wife. In the instant case, the amount of interim maintenance, which has been directed to be paid by the respondent-husband (herein), vide 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.



CRR(F)-215-2024
CRR(F)-665-2024

8. 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.
9. 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.
10. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

November 22, 2024
Ajay

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