



CRR(F)-245-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR(F)-245-2024

Date of decision: 19.09.2024

Poonam and another

...Petitioners

V/s

Anil Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajesh Duhan, Advocate for the petitioners.
Mr. Rakesh Gupta, Advocate for
Mr. Sumit Gupta, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 21.10.2023 passed by the Additional Principal Judge, Family Court, Karnal (hereinafter to be referred as 'impugned order') praying for modification of the said order for enhancing the quantum of interim maintenance awarded by the said order. Vide the impugned order; the interim maintenance at the rate of Rs.2500/- per month has been awarded to each of the petitioners. The petitioners (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and daughter, respectively, of the respondent (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.
2. Learned counsel appearing for the petitioners has argued that the learned Family Court has erred in determining the quantum of interim maintenance awarded to the petitioners (herein) insofar as the income of the respondent is concerned. According to the learned counsel, the petitioner



No.1-wife, having no independent means of income and being fully dependent on the respondent for her livelihood, is entitled to enhanced maintenance to ensure the welfare of the petitioners as they are facing great financial hardship to even meet their day to day needs. A paltry sum of Rs.2500/- per month to each of the petitioners is wholly inadequate to meet the rising costs of living considering the respondent's substantial monthly income. According to him, the interim maintenance has been awarded to the petitioners without appreciating the fact that the petitioner No.2 is studying in 11th class and has various additional expenses related to her education and for overall development and hence the quantum of interim maintenance awarded vide impugned order is inadequate and in the welfare of the petitioners, the same deserves to be modified and enhanced accordingly.

3. *Per contra*, learned counsel for the respondent has argued that the Family Court, while granting the interim maintenance to the petitioners, has completely ignored from consideration the material placed on record before it. It has been further argued that the petitioner No.1-wife is not at all dependent as portrayed by her but is instead qualified and capable of earning her own livelihood. By concealing her qualification and work experience, the petitioner No.1-wife has allegedly attempted to mislead the Court and create a false narrative of financial hardship. It has been further argued that since the petitioner No.1-wife has multiple qualifications, including a degree in Traditional Science and History, NTT and certification in basic Cosmetology, she has ample opportunities to secure gainful employment and is not entitled to seek maintenance whatsoever. Learned counsel has further argued that the Family Court ought to have considered all the aforesaid facts



before fastening the respondent with the liability to pay the interim maintenance. 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 ***Rajnish 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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xxx xxx xxx xxx xxx

(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;

xxx xxx xxx xxx xxx
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. Relationship between the parties is not in dispute. The facts of the instant case reflect that vide the impugned order; the petitioners (herein), who is the wife and daughter of the respondent, have been granted interim

maintenance at the rate of Rs.5000/- per month (i.e. Rs.2500 per month to



each of the petitioners). In the considered opinion of this Court, the interim maintenance amount awarded must be reasonable and realistic. The interim maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the husband, nor should it be so meager that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife/children are able to maintain themselves with reasonable comfort. While going through the impugned order, it transpires that the respondent is a retired Army personnel and is getting pension. Additionally, it is alleged that the respondent is currently employed as Special Police Officer (SPO) and is earning a substantial monthly income. This assertion, however, require thorough examination during the course of the trial, as this Court cannot make any definite conclusion based on the submissions made at this stage. In the absence of any relevant evidence and documentation with regard to dual sources of income possessed by the respondent, no conclusion can be made regarding the respondent's actual financial status. Moreover, the contentions raised by the learned counsel for the petitioner in the present petition are factual in nature and 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. At the stage of interim maintenance, the Family Court role is only limited to ensuring that the interim maintenance awarded is based on the available evidence and a fair assessment of both the parties' financial conditions. It is also apparent from the record that the order under challenge is only an interim 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 respondent/wife. In the instant case, the amount of interim maintenance, which has been directed to be paid by the respondent (herein), vide the impugned order cannot be said to be on the lower side and is rather just and appropriate in the facts/circumstances of the present case.

8. In view of the 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 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

September 19, 2024
Ajay

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