

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR(F)-152-2022 (O&M)
Date of Decision: 12.12.2024

LAVISH

...Petitioner

V/S

MANDEEP KUMAR DALAL

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jagjeet Beniwal, Advocate
for the petitioner.

Mr. Akashdeep Singh, Advocate
for the respondent.

HARPREET SINGH BRAR J. (Oral)

1. The petitioner, who is minor son of respondent, is challenging the judgment dated 25.01.2022 passed by learned Additional Principal Judge, Family Court, Bhiwani, in the proceedings under Section 125 Cr.P.C. vide which his father i.e. respondent herein, was directed to pay maintenance of Rs. 3,000/- per month to the petitioner.

2. The marriage between the mother of the petitioner and respondent was solemnized on 08.02.2012 according to Hindu rites and ceremonies. One child i.e the petitioner herein, was born from the said wedlock. However, matrimonial dispute ensued between the couple and mother of the petitioner started residing separately from the respondent and petitioner was residing with his mother since then. Petitioner filed a petition under Section 125 Cr.P.C. seeking maintenance. Respondent contested the claim made by petitioner and filed reply to the said petition. Learned Family Court, Bhiwani vide impugned judgment dated 25.01.2022 awarded maintenance to the tune of Rs. 3,000/- per month in favour of petitioner. Aggrieved by the same, petitioner has preferred this revision

petition.

3. Learned counsel for the petitioner-child *inter alia* contends that petition filed by the petitioner under Section 125 Cr.P.C. was decided on 25.01.2022 without obtaining the affidavits declaring assets and liabilities of the parties in the prescribed proforma as mandated by Hon'ble Supreme Court in **Rajnish v. Neha and another (2021) 2 SCC 324**. Learned counsel refers to paras No. 3 and 4 of the impugned judgment.

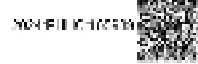
4. Per contra, learned counsel for the respondent-husband opposes the prayer made by learned counsel for petitioner, however, he could not controvert the fact that case of maintenance was decided without obtaining the requisite affidavits.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, the matter is taken up for disposal. A perusal of the impugned judgment indicates that maintenance was awarded by learned Court below without obtaining the affidavit disclosing assets and liabilities from the parties. A two Judge Bench of the Hon'ble Supreme Court in **Rajnish v. Neha and another (2021) 2 SCC 324**, speaking through Justice Indu Malhotra, has observed as follows :

“(b) Payment of Interim Maintenance

132. The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court/District Court/Magistrates Court, as the case may be, throughout the country.”

6. In view of the discussion above, the impugned judgment dated



25.01.2022 is hereby set aside and the matter is remanded back to the learned Additional Family Court, Bhiwani. The learned Court below is directed to pass a fresh order on the application for maintenance filed by the petitioner, strictly in accordance with law laid down by Hon’ble Supreme Court in **Rajnish v. Neha and another (2021) 2 SCC 324**.

7. Till the time application seeking maintenance on behalf of the petitioner, is again decided by the Family Court below, respondent shall continue to pay the amount of maintenance i.e. 3,000/- per month to the petitioner, as awarded vide the impugned judgment.
8. The present petition is disposed of accordingly
9. Pending miscellaneous application(s), if any, also stand(s) disposed of.

12.12.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No