



CRR(F)-83-2021 (O&M)

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per month to petitioner No.1 and Rs.2,000/- to petitioner No.2). Aggrieved by the same, the petitioners have approached this Court by filing the present revision petition.

Learned counsel for the petitioners *inter alia* contends that the impugned order vide which the maintenance has been granted to the petitioners has been passed without obtaining the affidavit of the parties and it is in complete violation of the rules as laid down by the Hon'ble Supreme Court in '**Rajnish v. Neha and another**' (2021) 2 SCC 324, as such, learned counsel for the petitioners submits that the petitioners would file their affidavit showing details of their income, assets and liabilities before the learned Family Court, in case the present petition is remanded back.

I have heard learned counsel for the parties and perused the record of the case with their able assistance.

While dealing with the issue, a two Judge bench of the Hon'ble Supreme Court in **Rajnish's case (supra)**, laid down the criteria and issued the following directions:

“VI Final Directions

130. *In view of the foregoing discussion as contained in Part B -I to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:*

(a) Issue of overlapping jurisdiction

131. *To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:*

(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding:



(ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;

(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding

(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.

(c) Criteria for determining the quantum of maintenance

133. For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B III of the judgment.

134. The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.

(d) Date from which maintenance is to be awarded

135. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.

(e) Enforcement/Execution of orders of maintenance

136. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI." (emphasis added)

In view of the above, the impugned order dated 12.03.2020 is set aside and the matter is remanded back to the learned Additional Principal Judge, Family Court, Gurdaspur and the Court below is directed to pass a fresh order within a period of six months from the date of receipt of certified copy of this order, as the petition was initially instituted in the year 2017, after considering the affidavits showing income, assets and liabilities of both the parties expeditiously, strictly in accordance with law as laid down in **Rajnish's**

case (supra).

Till the decision of the application for interim maintenance afresh by the learned Additional Principal Judge, Family Court, Gurdaspur, the respondent would continue to pay the maintenance as awarded vide impugned order dated 12.03.2020, as an interim measure.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

19.09.2024
Neha

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