



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

112

CRR(F)-282-2024

Date of decision: 25.11.2024

Sumit Sharma

....Petitioner

V/s

Mrs. Baby

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gaurav Gupta, Advocate for the petitioner.
Mr. Manoj Kumar Sood, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 22.11.2023 passed by the Principal Judge, Family Court, Faridabad (hereinafter to be referred as the ‘concerned Family Court’) praying for setting-aside of the said order. Vide the impugned order; the respondent (herein) has been awarded interim maintenance at the rate of Rs.3,000/- per month to be paid by the petitioner (herein) from the date of application alongwith litigation expenses of Rs.2,000/-. The respondent-wife (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that she is the wife of the petitioner-husband (herein) and is unable to maintain herself and hence the interim maintenance ought to be awarded to her.

2. Learned counsel for the petitioner has iterated that the learned Family Court, while determining the quantum of interim maintenance, has not taken into consideration the fact that the petition is not maintainable as no marriage was ever solemnized between the petitioner and the respondent



seeking maintenance. Moreover, the petitioner-husband was unaware of the first marriage of the respondent and her children. It has been further iterated that the petition for grant of interim maintenance filed before the Family Court by the respondent-wife is based on false and distorted facts with the intent to harass and humiliate the petitioner. Furthermore, the petitioner-wife has disclosed that he is employed as a Foreman at P.S. Enterprises, earning a salary of Rs.15,000/- per month. Learned counsel has further argued that the Family Court has overlooked the income of the petitioner while granting the interim maintenance to the respondent. According to learned counsel, the complaint filed by the respondent-wife at the Women Police Station is based on false and fabricated grounds without any credible evidence and the same has been done as an afterthought to strengthen the claim of the respondent for the interim maintenance. It has been further urged by the learned counsel that on 03.01.2022, a live-in-relationship deed (Annexure P-4) was executed between the petitioner and the respondent and just after two days i.e. on 05.01.2022, the same has been cancelled with mutual consent of both the parties in which it has been categorically stated that the respondent-wife will not seek/claim anything from the petitioner. Learned counsel has further iterated that the Family Court ought to have considered this aspect before fastening the petitioner with the liability to pay the interim maintenance to the respondent. Thus, it has been prayed that the impugned order is perverse and suffers from material infirmities and hence liable to be set-aside.

3. *Per contra*, learned counsel for the respondent has argued that the learned Family Court has rightly allowed the application seeking interim maintenance as the respondent-wife has no source of income to maintain



maintenance based on the calculation of the income of the petitioner as also taken due consideration of the relevant facts and circumstances of the case. Furthermore, it has been iterated by the learned counsel that the respondent was harassed by the petitioner on account of dowry demands and he is neglecting to maintain her. Thus, dismissal of the instant petition is prayed for.

4. I have heard learned counsel for the rival parties and have perused the available 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

1. *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.*
2. *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. Indubitably, the factum of marriage itself between the parties is denied by the petitioner-husband. The Family Court, after hearing the arguments and evidence of both the parties found that the petitioner-husband



(herein). He has also placed on record a copy of the live-in-relationship deed dated 03.01.2022, claiming that he was merely in a live-in-relationship with the respondent-wife. Another document submitted by the petitioner-husband before the Family Court is the cancellation of live-in-relationship deed dated 05.01.2022, to demonstrate that the relationship lasted only for two days and no marriage ever took place between the parties and hence the respondent-wife (herein) has no legitimate claim of interim maintenance against the petitioner-husband. Conversely, the respondent-wife relied on a marriage card purportedly showing that the parties were married in the year 2016 at the Kalkaji Temple. Hence, she is the legally wedded spouse of the petitioner-husband (herein) and, therefore, entitled for interim maintenance. The Family Court, in order to fix the interim maintenance, observed that whether the petitioner and respondent were legally married or whether their relationship was limited to a short term live-in arrangement remained a matter of evidence and can only be decided during the course of trial. It is apt to mention herein that the plea of a live-in-relationship and its cancellation was never raised by the petitioner-husband in his written statements filed before the Family Court which adds to the complexity of the matter.

7.1. In the instant case, the respondent-wife is currently unemployed and the plea raised by the counsel for the petitioner-husband with regard to factum of marriage, is a matter of trial and no ratiocination on the same can be made at this stage. The same can be ascertained only after adducing evidence by the parties. At this juncture, it becomes imperative for the petitioner-husband to fulfill his legal and moral obligations in ensuring the



the order under challenge is 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.

8. Considering the facts and circumstances of the case, the amount of Rs.3,000/- per month, which has been directed to be paid by the petitioner (herein) to the respondent, 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.

9. 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.

10. 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.

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

(SUMEET GOEL)
JUDGE

November 25, 2024
Ajay

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