



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-430-2024 (O&M)

Date of decision: 22.10.2024

Jaswant Singh
Parveen Kaur and another

V/s

...Petitioner
...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Satbir Singh Gill, Advocate for the petitioner.
Mr. Lupil Gupta, Advocate for the respondents.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 08.01.2024 passed by the Principal Judge, Family Court, Mansa, Camp Court Sardulgarh (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondent No.1-wife (herein) has not been awarded any interim maintenance whereas respondent No.2-minor son has been awarded interim maintenance at the rate of Rs.2500/- per month to be paid by the petitioner (herein) from the date of application.
2. Learned counsel for the petitioner, while referring to the medical report and disability certificate, which is annexed as Annexures P-4 to P-6 with the present petition, has argued that the petitioner is a handicapped person having disability to the effect of 55% and is undergoing treatment for the same which fact has completely been ignored while granting the interim maintenance to the respondent No.2-minor son. According to learned counsel, the Family Court has wrongly assessed the income of the petitioner without appreciating the facts put forth by the petitioner. It has been further argued that the Family Court has completely



overlooked the fact that the respondent No.1-wife is a hale and hearty lady and hence can easily maintain respondent No.2. Learned counsel has further argued that the Family Court ought to have considered the financial capacity of the petitioner and the reasonable expenses for his own maintenance being disabled before fastening with the liability to pay the interim maintenance to respondent No.2. Thus, it has been prayed that the impugned order is patently illegal, perverse and suffers from material illegalities and infirmities and the same is liable to be set-aside.

3. *Per contra*, learned counsel appearing for the respondents has iterated that the respondent-wife has neither any source of income nor any immovable property to maintain herself or the minor son. It has been further argued that the petitioner is having movable or immovable property in his name and also cultivating the land after taking the same on lease. Furthermore, the petitioner is running the dairy business and his monthly income from all the sources is approximately Rs.80,000/- per month. Hence, dismissal of the instant petition has been prayed for.

4. I have heard learned counsel for the 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

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 s 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.

xxx	xxx	xxx	xxx	xxx
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.

xxx	xxx	xxx	xxx	xxx
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 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. Relationship between the parties is not in dispute. The facts of the instant case reflect that vide the impugned order; the respondent No.2 (herein), who is the minor son of the petitioner, has been granted interim maintenance at the rate of Rs.2500/- per month whereas respondent No.1 has been denied the payment of interim maintenance on the ground that she did not approach the Family Court with clean hands and had deliberately tried to mislead the Court. In the instant case, it is borne out from the record that the petitioner-husband has been suffering from 55% temporary disability in relation to his spinal cord for which he is undergoing treatment. It has also come on record that the respondent-wife has not been able to prove or place on record any document to show that the petitioner-husband is running dairy business or is in possession of any agricultural land. The Family Court while considering the fact that the respondent-wife has concealed the fact that she is residing in the house of the petitioner-husband itself as also that the petitioner-husband is 55% disabled, denied the payment of any interim maintenance. However, the respondent No.2, who is the minor son of the petitioner, has been awarded interim maintenance at the rate of Rs.2500/- per



present petition with regard to factual aspect, are 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. 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.

7.1 Considering the facts and circumstances of the case, the amount of Rs.2500/- per month, which has been directed to be paid by the petitioner (herein) to respondent No.2-minor son, 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.

8. 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.

9. 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.

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

(SUMEET GOEL)
JUDGE

October 22, 2024
Ajay