



**220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR(F)-544-2022

Date of decision: 28.11.2024

MANDEEP KAUR BRAR

...PETITIONER

V/S

SUKHPREET SINGH BRAR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.P.S. Ghuman, Advocate
for the petitioner.

Ms. Harleen Kaur, Advocate for
Mr. Sukhpreet Singh Brar, Advocate for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed seeking modification of order of judgment 05.03.2020 passed by learned Additional Principal Judge, Family Court, Nabha, whereby, the respondent has been directed to pay an amount of Rs.7,500/- per month for maintenance to the petitioner from the date of aforesaid order.

2. Brief facts of the case are that the marriage of petitioner and the respondent was solemnized on 04.07.2010 in accordance with Sikh rites and ceremonies. Out of this wedlock, two children were born. However, matrimonial dispute ensued between the couple and the petitioner filed a petition under Section 125 Cr.P.C. seeking maintenance. The respondent filed a reply and contested the claim made by the petitioners. The learned Family Court, Nabha vide judgment dated 05.03.2020 granted maintenance allowance of Rs. 7,500/- per month in favour of the petitioner from the date of passing of order. Aggrieved by the same, the petitioner has approached this Court by filing



the present petition.

3. Learned counsel for the petitioner *inter alia* contends that the grievance raised in the present petition by the petitioner is that learned Family Court, Nabha has committed an error in granting the maintenance from the date of passing of order instead of from the date of filing of the petition. The Hon'ble Apex Court has examined the issue of granting maintenance in *extenso* and issued detailed guidelines in this regard. In view of the ratio of law laid down in '**Rajnish v. Neha and another**' (2021) 2 SCC 324, the Apex Court has categorically held that maintenance in all cases shall be awarded from the date of filing the application for maintenance.

4. Having heard learned counsel for the parties and after perusing the record with their able assistance, the present petition is taken up for final disposal.

5. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in **Rajnish v. Neha and another** (2021) 2 SCC 324, laid down the criteria for determining quantum of maintenance 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 arder 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."*

6. In view of the discussion made hereinabove, the impugned judgment dated 05.03.2020 is hereby modified to the extent that petitioner is held entitled to maintenance of Rs. 7,500/- from the date of filing of the application under Section 125 Cr.P.C. in view of ratio of law laid down by Hon'ble Supreme Court in ***Rajnish v. Neha and another*** (supra).



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8. The present petition is disposed of accordingly.

November 28, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |