



CRR(F)-456-2023

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-456-2023

Date of decision:03.09.2024

Neeraj and others

....Petitioners

V/s

Sunil Kumar Indora

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. R.S. Rana, Advocate for the petitioners.

None for the respondent.

SUMEET GOEL, J.

1. The instant petition has been preferred by the petitioners against the order dated 23.12.2022 passed by Principal Judge, Family Court, Jhajjar, Camp Court, Bahadurgarh whereby each of the petitioners were granted Rs.5,000/- per month as maintenance allowance from the date of filing of the petition till petitioner No.1 getting remarried and petitioner Nos.2 & 3 getting married or starting to work to earn their livelihood.

The only question that arises for consideration, in the instant revision petition, is the quantum of maintenance allowance to be awarded to the petitioners (herein).

2. Learned counsel for the petitioners has submitted that the respondent was working as a Clerk in MTNL, Telephone Exchange, New Delhi and was earning about Rs.82,000/- per month. A paltry sum of Rs.5,000/- per month as maintenance to each of the petitioners was granted without appreciating the fact that the petitioner Nos.2 and 3 are minor school going children and have various additional expenses related to their education and for overall development. It has been prayed that keeping in



view the pertinent needs of the petitioners, the impugned order deserves to be modified and the maintenance allowance deserves to be enhanced.

3. None had appeared on behalf of the respondent on 29.08.2024 whereinafter arguments were heard and the judgment was reserved.

4. I have heard the learned counsel for the petitioner and have perused the available record.

5. It would be apposite to refer herein to a judgment of the Hon’ble Supreme Court in the case titled as **Rajnesh vs. Neha & Anr.: 2021(2) SCC 324**, relevant whereof reads as under:

“III Criteria for determining quantum of maintenance

(i) The objective of granting interim / permanent alimony is to ensure that the dependant spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

82. *The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependant children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. Refer to **Jasbir Kaur Sehgal v. District Judge, Dehradun & Ors. (1997) 7 SCC 7**. Refer to **Vinny Paramvir Parmar v. Paramvir Parmar (2011) 13 SCC 112**.*

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

84. *On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due*



regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications. **Reema Salkan v. Sumer Singh Salkan (2019) 12 SCC 303.**

ii) A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. **Chaturbhuj v. Sita Bai (2008) 2 SCC 316.**

85. The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

86. In a marriage of long duration, where parties have endured the relationship for several years, it would be a relevant factor to be taken into consideration. On termination of the relationship, if the wife is educated and professionally qualified, but had to give up her employment opportunities to look after the needs of the family being the primary caregiver to the minor children, and the elder members of the family, this factor would be required to be given due importance. This is of particular relevance in contemporary society, given the highly competitive industry standards, the separated wife would be required to undergo fresh training to acquire marketable skills and re-train herself to secure a job in the paid workforce to rehabilitate herself. With advancement of age, it would be difficult for a dependant wife to get an easy entry into the work-force after a break of several years.

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

(d) Maintenance of minor children

96. The living expenses of the child would include expenses for food, clothing, residence, medical expenses, education of children. Extra coaching classes or any other vocational training courses to complement the basic education must be factored in, while awarding child support. Albeit, it should be a reasonable amount to be awarded for extra-



curricular / coaching classes, and not an overly extravagant amount which may be claimed.

97. *Education expenses of the children must be normally borne by the father. If the wife is working and earning sufficiently, the expenses may be shared proportionately between the parties."*

6. A perusal of the factual matrix of the case in hand reflects that the respondent is working as a Clerk in Mahanagar Telephone Nigam Limited, New Delhi and was earning, in November of 2022, a gross salary of Rs.82095/- per month. Exhibit PW-2/B brought on record during the course of evidence before the Court below reads thus:

"To

*The Hon'ble Principal Judge, Family Court,
(In the court of Ms. Bhawna Jain)
Camp Court, Bahadurgarh (HR)*

SUB: Information relating to Case No. MNT125/553/2019, Neeraj Vs Sunil Kumar Indora, Previous date 28.10.2022, next date 11.11.2022

Respected Madam,

Kindly refer to your notice dated 03/11/2022 regarding Case No.MNT125/553/2019, Neeraj Vs Sunil Kumar Indora, Emp. No. D1701037 and HRD no. D5027638. In this regard, it is intimated that as per service record available in this office, Sh. Sunil Kumar is presently drawing Gross Salary of Rs.82095/- PM (copy of latest pay slip of October-2022 is enclosed) Copy of yearly salary register from Jan-2022 to Oct-2022 is also attached. Regarding accumulation of EL is concerned, as on date total 279 days EL are credit balance.

As per information received from EPF Unit MTNL Corporate Office, the CPF accumulation of Rs.4506057/- stands to the credit of Sh. Sunil Kumar (Emp. No. D1701037), has been transferred to the EPFO being a working employee. This accumulation represents the CPF accumulation upto 31/05/2020 with interest upto 31/07/2020. Therefore the latest information regarding the complete CPF accumulation may be sought from RPFC Office, EPFO, 28, Wazirpur Industrial Area, New Delhi-110052.

Encl: a/a

Sd/-

*Deputy Manager (P&A) HQ
Mohanagar Telephone Nigam Ltd.
New Delhi-110050"*



6.1. Once it is clearly established on the record that the respondent was earning a gross salary of Rs.82095/- per month, the maintenance allowance of Rs.15,000/- per month to the petitioners (Rs.5,000/- per month to each of the petitioners) is definitely on the lower side. The petitioner No.1-wife deserves to live as per the standard in accordance with the emoluments of the respondent-husband. From the status of the parties, reasonable needs of the wife and the standard of living she is required to be granted; calls for enhancement of the maintenance allowance. Furthermore, the petitioner Nos.2 and 3 are girls of growing age and would definitely require expenses for food, clothing and education etc. in accordance with the income of the respondent-husband. The learned Court below has taken into account that the petitioner No.1-wife (herein) was working as a Clerk in Water Services Division, Bahadurgarh w.e.f 05.11.2019 to 17.03.2021 but no material is available on record to indicate that she continued to be in gainful employment after March, 2021. Mere possession of qualification by the wife, who is admittedly not gainfully employed, cannot be a ground to deny or reduce the quantum of maintenance allowance required to be accorded to her. It would be apposite to refer herein to a judgment passed by Bombay High Court (Aurangabad Bench) titled as ***Aboil alias Yugandhara vs. Tejpal, 2022 Supreme(BOM) 1621***, relevant whereof reads as under:

“16. Thus the Apex Court has made distinction between capability to earn and actually earning. It is held that merely because the wife is capable of earning, the same cannot be a reason to reduce maintenance awarded by the Family Court.

xxx

xxx

xxx

xxx



18. *The position of law thus appears to be that mere possession of qualifications by wife who is admittedly not employed, cannot ipso facto be a reason to deny interim maintenance altogether.”*

Moreover, it is not only the legal binding duty but also the moral responsibility of the husband/father to provide maintenance and sustenance to his wife/children and cater to their educational/overall developmental needs. In these respects, a father/husband cannot forsake his duty towards his family.

7. Accordingly, keeping in view the entirety of facts and circumstance of the case, the present revision petition is allowed and impugned order dated 23.12.2022 is modified to the extent that the respondent-husband (herein) is directed to pay a sum of Rs.30,000/- per month to the petitioners (i.e. Rs.10,000/- per month to each of the petitioners) as maintenance allowance from the date of filing of the petition. It goes without saying that the petitioner No.1 would be entitled to such maintenance allowance till she gets remarried & petitioner Nos.2 and 3 (herein) ought to be paid Rs.10,000/- per month till they get married or started working to earn their livelihood.

7.1 Ordered accordingly. No order as to costs.

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

(SUMEET GOEL)
JUDGE

September 03, 2024
Ajay

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