



CRR(F)-470-2023

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRR(F)-470-2023 (O&M)

Date of decision: 06.09.2024

Indu Bala and others

...Petitioners

V/s

Jatin Dang

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gurcharan Dass, Advocate for the petitioners.

Mr. G.S. Jagpal, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 01.02.2023 passed by the Additional Principal Judge, Family Court, Ludhiana (hereinafter to be referred as 'impugned order') praying for modification of the said order for enhancing the quantum of interim maintenance awarded by the said order. Vide the impugned order; the petitioners (herein) have been awarded interim maintenance at the rate of Rs.8,000/- per month (i.e. Rs.4,000/- per month to petitioner No.1 and Rs.2,000/- per month each to petitioner Nos.2 and 3 (minor daughters) till further orders to be passed in the main case or till the date of their marriage whichever is earlier; though there is a typographical error in para 25 of the impugned judgment as instead of petitioner No.3, petitioner No.2 has been typed again) to be paid by the respondent-husband (herein) alongwith litigation expenses to the tune of Rs.11,000/- from the date of the application. The petitioners (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, Ludhiana stating that they are the

**CRR(F)-470-2023**

2

wife and minor daughters, respectively, of the respondent (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. Learned counsel appearing for the petitioners has argued that the Family Court, while granting the interim maintenance to the petitioners, has completely left out from consideration the ITR returns for the assessment years 2013-14 to 2021-22 of the respondent-husband which has been duly proved on record by way of testimony of PW-4 (Senior Tax Assistant). It has been further argued that, as per the ITR returns of the respondent particularly for the years 2013-14 as also 2015-16, which were in close proximity when the matrimonial dispute begun, ought to have taken into consideration by the concerned Court below while deciding the quantum of maintenance so granted. According to the learned counsel, the respondent-husband has not acted *bona fide* and disclosed his specific income evasively. A meager sum of Rs.8,000/- has been awarded by the Family Court only on the assumptions and without taking into consideration the documents placed on record by the petitioners. Learned counsel has further submitted that the Family Court has gravely erred in granting the maintenance on the lower side and hence the respondent deserves to be fastened with liability to pay interim maintenance at the rate of Rs.60,000/- per month. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be modified and enhanced accordingly.

3. *Per contra*, learned counsel for the respondent has argued that the learned Family Court has erred in determining the quantum of interim



CRR(F)-470-2023

3

maintenance awarded to the petitioners (herein) insofar as the income of the respondent is concerned. Learned counsel has submitted that the petitioner No.1-wife has sufficient means of income to maintain herself as she is doing a business of bakery and is earning handsomely. According to the learned counsel, the Family Court ought to have considered the financial capacity of the respondent and reasonable expenses for his own maintenance before fastening with the liability to pay the interim maintenance at the rate of Rs.8,000/- per month. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be set-aside by reducing the quantum so granted and the same be modified by taking into consideration the earning capacity as well financial status of the respondent.

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

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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

**CRR(F)-470-2023**

5

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, indubitably, is subject to final adjudication and it is a provisional step subject to final determination to be made at 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 petitioners (herein), who is the wife and minor daughters of the respondents, have been granted interim maintenance at the rate of Rs.8,000/- per month (i.e. Rs.4,000/- per month to petitioner No.1-wife and Rs.2,000/- per month each to petitioner Nos.2 and 3 (minor daughter); till further orders to be passed in the main case or till the date of their marriage whichever is earlier. In the considered opinion of this Court, the interim maintenance amount awarded must be reasonable and realistic. The interim maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the husband, nor should it be so meager 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. While going through the impugned order, it transpires that as per the affidavit of disclosure of assets and liabilities filed before the Family Court, the petitioner-husband was earlier working and drawing a monthly salary of Rs.10,500/- per month. However, as of now he is unemployed. The contentions raised by the learned counsel for the petitioners in the present petition with regard to income of the respondent, are in fact, matter of trial and hence the same



should not be delved into at this stage. The same can be ascertained only after adducing evidence by the parties. Moreover, the impugned order is only an interim measure 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. In the instant case, the amount of Rs.8,000/- per month, which has been directed to be paid by the respondent(herein), vide the impugned order cannot be said to be on the lower side and is rather just and appropriate in the facts/circumstances of the present case.

8. In view of the 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 therefrom.

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

(SUMEET GOEL)
JUDGE

September 06, 2024
Ajay

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