



CRR(F)-483-2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

266

CRR(F)-483-2024

Date of decision: 24.10.2024

Madan Kumar

...Petitioner

V/s

Rajni @ Rajni Devi

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Gehna Vaishnavi, Advocate
as Legal Aid Counsel for the petitioner.

Mr. Sourabh Singla, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 09.02.2024 passed by the Additional Principal Judge, Family Court, Patiala (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondent-wife (herein) has been awarded interim maintenance at the rate of Rs.3,000/- per month to be paid by the petitioner-husband (herein) from the date of the application alongwith litigation expenses of Rs.5,000/-. The respondent (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 (herein) and is unable to maintain herself and hence the interim maintenance ought to be awarded to her.

2. Learned counsel appearing for the petitioner has iterated that the Family Court, while assessing the quantum of interim maintenance, has ignored from consideration the fact that the petitioner is mentally unstable

and on account of the same he cannot do any work/job. In contrast, the

**CRR(F)-483-2024****2**

respondent-wife is doing a job and is earning handsomely. Learned counsel asserts that the findings of the learned Family Court are based on a misrepresentation of facts and the same should be set-aside. It is further submitted that the petitioner is entirely dependent on his parents and is unable to support himself or pay any maintenance amount to the respondent-wife. Furthermore, the respondent has deserted the petitioner and has outrightly refused to live with him. According to learned counsel, the petitioner had previously worked as a waiter at marriage functions but is no longer able to work due to his deteriorating mental health. It is respectfully submitted that the respondent's deliberate attempt to conceal her true financial status constitutes a gross abuse of the process of the Court. It has been further argued, that the respondent has refused to live with the petitioner without any justifiable cause which further demonstrates that the respondent-wife has no justifiable grounds for seeking maintenance. Learned counsel has further argued that the Family Court ought to have considered this aspect before fastening with the liability to pay the interim maintenance to the respondent. Thus, it has been prayed that the impugned order is patently illegal and suffers from material illegalities and 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 herself. Furthermore, the Family Court has determined the quantum of 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. Thus, it has been prayed that the present petition be dismissed.

4. I have heard learned counsel for the petitioner 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 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. Indubitably, the relationship between the parties is not in dispute. The facts of the instant case reflect that vide the impugned order; the respondent, who is the wife of the petitioner, has been granted interim maintenance at the rate of Rs.3,000/- per month from the date of petition. While going through the impugned order, it transpires that the petitioner (herein) has consistently maintained throughout the proceedings that he is

unemployed and is financially dependent on his parents. However, being an



able-bodied individual, the Family Court held that the petitioner (herein) can reasonably be expected to earn an income equivalent to that of a daily labourer, which in present times would amount to approximately Rs.9,000 - 10,000/- per month. Furthermore, the petitioner-husband (herein) had failed to provide any convincing evidence to show that the respondent-wife (herein) has any steady source of income or any adequate means of financial support for her survival. Considering the arguments raised by both the parties, alongwith the overall facts and circumstances of the case, and taking into account the standard of living that the respondent-wife was accustomed to in the matrimonial home, the Family Court held that the respondent is likely to encounter substantial financial hardship in case order granting interim maintenance is not passed at this stage as also to prevent unnecessary suffering during the course of the legal proceedings. In the considered opinion of this Court, the impugned order is merely an interim measure and to alleviate the immediate financial pressure being faced by the respondent-wife. At this juncture, the contentions raised by learned counsel for the petitioner in the present petition with regard to factual aspect, are matter of trial and no ratiocination on the same can be effectively made at this stage. The same can only be ascertained after the parties adduce evidence. It is also apparent from the record that the order under challenge is only interim in nature and not a final decision on 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.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.

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 24, 2024
Ajay

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