



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

CR-2213-2024

Date of decision: 15.04.2024

Ritesh Bhargava

.....Petitioner

V/s

Bhupiner Bhargava

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Shamsheer Singh Mor, Advocate
 for the petitioner.

DEEPAK MANCHANDA J.

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 20.12.2023 (Annexure P-1) passed by the trial Court and order dated 15.02.2024 (Annexure P-4) passed by the Appellate Court whereby the directions have been issued to the petitioner-husband to pay all outstanding amount of interim maintenance failing which the appeal against the order dated 20.12.2023 (Annexure P-1) would not be maintainable with a further prayer for issuing directions to the Appellate Court to hear the appeal and decide the same on merits.

2. The facts emanating from the pleadings of the case are that the marriage of the petitioner-husband was solemnized with the respondent-wife on 01.02.1998 as per Sikh Rites and Customs and four children were born out of the said wedlock. The petitioner-husband is living separately since 2022 and all the four children are living with the respondent-wife. The children are school going and expenditure qua their studies is being borne by the respondent-wife only. By



order dated 20.12.2023 (Annexure P-1), the application of interim maintenance filed by the respondent-wife was partly allowed, and the petitioner-husband was directed to pay Rs. 30,000/- (Rs.10,000/- for each daughter) to the respondent-wife as maintenance allowance from the date of filing of the application till the decision of the case. Thereafter, being aggrieved against the said order, the petitioner-husband filed an appeal bearing CRA No.33 of 2023 titled ***Ritesh Bhargava Vs. Bhupinder Bhargava*** against the order dated 20.12.2023 (Annexure P-1) whereby the learned Appellate Court vide order dated 15.02.2024 (Annexure P-4) denied hearing of the appeal filed by the petitioner-husband and directed him to first pay all the outstanding amounts of interim maintenance, failing which the appeal would not be entertained. Being aggrieved with the said orders, the present Civil Revision Petition has been filed before this Court.

3. Learned counsel for the petitioner-husband contends that the Appellate Court failed to appreciate the material available on record before passing the impugned order as respondent-wife has approximately Rs.1.5 crores in her bank accounts which actually belongs to the petitioner-husband and besides the same, she has immovable assets worth crores of rupees which are sufficient to take care of all her needs and maintenance of children and therefore, she is not entitled for any maintenance. Learned counsel further contends that the respondent-wife is working and her monthly salary is Rs.70,000/-. As an additional income, she is also getting monthly rent of around Rs.2.5 lakhs per month from the property. He has further contended that the petitioner-husband is jobless, unfit for work due to his medical condition and does not have any means to sustain himself whereas on the other hand, the respondent-wife is financially stable and is capable of taking care of herself along with her children. Therefore, without considering the financial status of the respondent-wife, the Appellate Court has wrongly passed the impugned orders without application of mind which



deserves to be set aside or to be modified to the extent that appeal filed by the petitioner-husband be heard and decided on merits without making the payment of remaining arrears.

4. Heard.

5. The perusal of the impugned orders would show that after going through the affidavits produced by the parties, the trial Court decided that minor daughters of the petitioners-husband are entitled for maintenance to the tune of Rs.30,000/- per month from the date of filing of petition for the purpose of maintenance and school fees etc., whereas the relief qua directions of making payment or EMIs was declined. Thereafter, being aggrieved from the said order, the petitioner-husband preferred an appeal before the Appellate Court whereas vide impugned order dated 15.02.2024 (Annexure P-4) being an interim measure the Appellate Court directed the petitioner-husband to deposit the amount as interim maintenance where part payment was already made by the petitioner-husband and had not been fully paid being arrears of maintenance to prevent agony of the respondent-wife to be prolonged, failing with the appeal filed by the petitioner-husband could not be entertained. It is further made clear that if the amount is deposited and later the Appellate Court concludes that the amount of maintenance, was on higher side, the extra amount so paid, shall be adjusted against the amount due in future and in the event of the non-compliance of the order dated 15.02.2024 (Annexure P-4), the appeal filed by the petitioner-husband will be treated as non-maintainable.

6. This Court is of the view that to curtail the agony of respondent-wife or her children and to serve the interest of justice, the order of maintenance passed in their favour is justifiable. This decision is made with the utmost consideration for the welfare of the children. It is only for the reason to ensure that the petitioner-husband deposits the amount of maintenance so ordered by trial



Court payable to respondent-wife before the appeal is maintained. It is also not disputed that the amount due as arrears of maintenance has not been fully paid, and only part payment has been made by the petitioner-husband. Moreover by passing the aforementioned orders petitioner has not lost his right to appeal rather same are only conditional orders for the betterment of children, and this court does not find any ambiguity therein.

7. In the light of the above, this Court finds that the impugned orders dated 20.12.2023 (Annexure P-1) and 15.02.2024 (Annexure P-4) have been rightly passed, ensuring a fair and just resolution. Accordingly, the present petition is dismissed being devoid of any merits.

15.04.2024
sapna

(DEEPAK MANCHANDA)
JUDGE

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