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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR(F)-542-2024

Date of decision: 18.09.2024

Ravi

...Petitioner

V/s

Simran Mehra alias Monika

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Sarika Gupta, Advocate for the petitioner.

Mr. Gagandeep Singh, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 27.10.2023 passed by the Additional Principal Judge, Family Court, Amritsar (hereinafter to be referred as 'impugned order') praying for setting-aside of the said order. Vide the impugned order; the respondent (herein) has been awarded interim maintenance at the rate of Rs.12,000/- per month from the date of the application alongwith the litigation expenses of Rs.4400/-. The respondent (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that she is the legally wedded 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 contended that the respondent, by concealing the fact of moving two different applications i.e under Section 24 of HMA and the another under Section 125 of Cr.P.C. for maintenance, has not acted *bona fidely*. Learned counsel has further argued that the respondent had earlier filed a similar application under Section 24 of HMA for grant of maintenance pendente lite wherein the

Respondent had sought maintenance on identical grounds as raised in the

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application under Section 125 of Cr.P.C. and was granted Rs.4000/- per month as maintenance pendente lite. According to the learned counsel, despite the pendency of the application under Section 24 of HMA, the respondent chose to file another application under Section 125 of Cr.P.C., without disclosing the existence of the previous application. According to the learned counsel, the act of filing multiple applications on the same grounds for maintenance is an attempt to obtain a double benefit and unjustly burden the petitioner. Furthermore, the petitioner has consistently been fulfilling his obligations, including covering the educational and daily expenses of the son, who is under his care and custody since the respondent had left the matrimonial home without any reasonable cause. It has been further argued that the petitioner has limited means of earning and the amount of interim maintenance awarded is disproportionate to his income. Learned counsel has further argued that the petitioner is already burdened with other financial burdens including household expenses and hence the amount of interim maintenance of Rs.12,000/- awarded to the respondent is on the higher side. Learned counsel has further argued that the quantum of interim maintenance is based upon surmises and conjectures. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be set-aside.

3. *Per contra*, learned counsel for the respondent has argued that the learned 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. It has been further argued that the respondent has not done any concealment of facts and



hence there is no lack of bona fide on respondent's part, with respect to moving applications under both Section 24 of HMA and Section 125 of Cr.P.C. According to him, these two provisions operate independently, and the filing of separate applications under each section is well within the legal framework as each serves a distinct purpose in matrimonial dispute. Thus, it has been prayed that the present petition be dismissed.

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 is 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.

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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, 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 respondent, who is the wife of the petitioner, has been granted interim maintenance at the rate of Rs.12,000/- per month from the date of the application. While going through the impugned order, it transpires that the interim maintenance has been awarded keeping in mind the financial responsibilities of the petitioner as well as the reasonable needs of the respondent. It is a well settled principle that Section 24 of the HMA pertains to maintenance pendente lite, specially during the course of matrimonial proceedings, whereas Section 125 of Cr.P.C. is a general provision meant to provide immediate relief to the destitute spouse. The maintenance to be awarded must take into consideration the respondent's reasonable needs, ensuring that she is able to maintain a standard of living that is in line with the social and economic status of the parties. The petitioner is shown, as per the certificate of Computation of Income as per Normal Provisions, to be having gross turnover of Rs.13,45,800/-, and actual profit/net income of Rs.4,85,920/- per annum for the assessment year 2021-2022 and hence the interim maintenance of Rs.12,000/- per month has rightly been granted by the Family Court. The amount is both reasonable and proportionate, given the financial standing of the petitioner. The Family Court, while determining the interim maintenance, must ensure that the respondent is not left in financial distress and can maintain a standard of living consistent with the status enjoyed during the marriage. Furthermore, the quantum of interim maintenance awarded by the Family Court has also taken into consideration the obligation of the petitioner towards his son and his aged mother and



hence, the interim maintenance awarded appears to be just and equitable. The contentions raised by learned counsel for the petitioner in the present petition with regard to factual aspect, 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 interim maintenance, which has been directed to be paid by the petitioner (herein), 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 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 the 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 18, 2024
Ajay

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