



CRR(F)-551-2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

232

CRR(F)-551-2024 (O&M)

Date of decision: 16.12.2024

Sushma

...Petitioner

V/s

Shyam Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vivek Singla, Advocate for the petitioner.

Ms. Mamta Parmar, Advocate for

Ms. Varuna Singh, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant petition has been preferred by the petitioner against the order dated 11.01.2024 passed by Additional Principal Judge, Family Court, Sonipat whereby petitioner was granted Rs.4,000/- per month as maintenance allowance from the date of the order i.e. 11.01.2024.

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

2. Learned counsel for the petitioner has iterated that the learned Family Court has failed to appreciate that the respondent is a graduate and is running his own furniture business under the name "Om Sai Foam House and Sofa Materials" with an income exceeding Rs.1,00,000/- per month. It has been further iterated that the respondent also owns a residential house in Sonipat and holds a share in the ancestral agricultural land. According to learned counsel, the respondent, with the intention of defeating the rightful claim of the petitioner, has submitted an incorrect affidavit which the Family

**CRR(F)-551-2024****2**

Court has failed to scrutinize. Given the financial status and assets of the respondent, the counsel for the petitioner submits that the maintenance amount of Rs.4,000/- per month is grossly insufficient. Learned counsel asserts that the petitioner is entitled to maintain a living standard at par with the respondent. However, the Family Court has failed to consider this aspect and did not grant the maintenance commensurate with the lifestyle and earnings of the respondent. The impugned order deserves to be modified and the respondent should be directed to pay Rs.30,000/- per month as maintenance, as originally prayed for in the petition filed under Section 125 Cr.P.C., 1973 before the Family Court. It has been further argued that the law is well settled that the maintenance is to be granted from the date of the petition. However, the learned Family Court has erred in awarding the maintenance from the date of order i.e. 11.01.2024, instead of the date of the petition i.e. 13.01.2022. It has been prayed that keeping in view the pertinent needs of the petitioner, the impugned order deserves to be modified and the maintenance allowance deserves to be enhanced as also to grant the same from the date of the petition.

3. *Per contra*, learned counsel appearing for the respondent has iterated that the petitioner has left the company of the respondent on her own accord on account of illicit relation with some unknown person. According to learned counsel, the petitioner has sufficient source of income to maintain herself. Hence, dismissal of the instant petition has been prayed for.

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

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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.

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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.

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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.”

**CRR(F)-551-2024****5**

6. A perusal of the factual matrix of the case in hand reflects that the petitioner-wife claims to have no income or property but the respondent-husband asserts that he had purchased a 100 square-yard plot in her name through two sale-deeds dated 15.05.2013 and 25.05.2018. Initially, the petitioner-wife denied owning any property but during the course of proceedings before the Family Court, the respondent-husband provided evidence showing that the petitioner-wife had sold the plot on February 10, 2023 and in her subsequent additional affidavit the petitioner-wife admitted the above-said fact. Subsequently, the petitioner-wife admitted selling the plot to meet her daily needs. This concealment reflects adversely on the conduct of the petitioner-wife although no income from the plot was established. Furthermore, the petitioner-wife, with limited education (8th grade) has no proven regular income whereas the respondent-husband alleged that she is a tailor by profession but no evidence to support this claim has been brought on record. Conversely, the respondent-husband, a carpenter by profession, has disclosed his earning as Rs.10,000/- to 15,000/- per month but the Family Court estimates his actual income to be Rs.18,000/- to 20,000/- per month, considering his skills and additional agricultural income. Moreover, the respondent-husband has financial responsibilities, including two school-going children and his elder mother, who are living with him. Taking into account the liabilities of the respondent-husband, the Family Court has granted Rs.4,000/- per month as maintenance allowance from the date of the order.

6.1. In marital disputes, the full disclosure of the income and the bank details by both the parties is a pertinent factor to ensure fair and just

**CRR(F)-551-2024****6**

decision. In proceedings arising out of maintenance petitions, the Courts plays heavy reliance on the facts and material so provided by the rival parties and hence utmost transparency and credibility of information is expected from them. Proper and accurate disclosure of relevant facts by the rival parties promotes equity and ensures just outcome of the judicial process, however, any attempt to obscure, misrepresent or concealment of financial standing or other relevant facts gravely undermine the judicial goal of reaching to the truth and doing justice between the parties. While it is an inherent duty of the Court to uncover the truth and render justice between the parties, it is equally incumbent upon litigants to approach the Court with utmost candor and transparency. The doctrine of “*he who seeks equity must do equity*”, rooted in equitable jurisprudence, applies with unmitigated force to all Courts and judicial forums. This maxim underscores the foundational principle that parties seeking relief must demonstrate fairness and good faith in their conduct. Litigants are indispensable participants in the administration of justice, akin to wheels of the chariot of justice. Their conduct significantly impacts the Court’s ability to deliver equitable and efficient resolutions. This obligation assumes particular importance in maintenance proceedings under Section 125 of the Code of Criminal Procedure, 1973 where financial disclosures and factual veracity are pivotal to ensuring a just outcome for the parties involved. If a party deliberately suppresses facts, indulges in misrepresentation, or approaches the Court with mala fides intention, the Court is compelled to draw adverse inferences against such conduct. Maintenance proceedings, being remedial and benevolent in nature, demand utmost transparency to uphold the spirit of

**CRR(F)-551-2024****7**

justice. Any attempt to frustrate these proceedings through concealment or deceit undermines the sanctity of judicial processes and must be met with appropriate judicial disapproval to preserve the integrity of justice delivery. The initial suppression of material facts on part of the petitioner regarding the plot constitutes a prima facie indication of *mala fide* on her part. The petitioner has failed to provide transparent and verifiable accounts for the proceeds of the sale of the plot. The assertion made by the petitioner that the plot was acquired with funds given by her brother and consequently the proceeds of the sale of the plot were employed for reimbursement of such advance made by her brother, remains unsubstantiated due to the absence of corroborative evidence. In legal proceedings, such omissions warrant invocation adverse inference against the person concealing material facts and furnishing explanations which are unsubstantiated. The failure of the petitioner to discharge this evidentiary burden undermines the veracity of her financial disclosures in her Affidavit of Disclosure. Consequently, these deficiencies render her petition for the enhancement of the maintenance amount untenable. Courts of law are predisposed to deny relief when a petitioner exhibits bad faith or fails to bring forth true state of affairs, as such conduct subverts the integrity of the adjudicative process. Therefore, the petitioner's lack of candor and evidentiary support justifies the dismissal of her plea for enhancement of maintenance.

7. Another aspect of the matter which requires consideration at this juncture. The view undertaken vide the impugned order; that the learned Family Court has directed the amount of maintenance to be paid by the respondent, from the date of judgment instead from the date of filing of



CRR(F)-551-2024

8

petition under Section 125 of Cr.P.C., 1973; in my considered opinion is erroneous in the facts and circumstances of the present case. In this regard, it is pertinent to refer herein to the dicta of Hon'ble Supreme Court in the case of **Rajnesh vs Neha & another, 2020(4), RCR (Criminal) 879**, relevant whereof reads as under:

“116. The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded.

117. Even though a judicial discretion is conferred upon the Court to grant maintenance either from the date of application or from the date of the order in Section 125(2) Cr.P.C., it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 Cr.P.C., 1973 In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

*118. In `the case of **Shail Kumari Devi and Ors. v. Krishnan Bhagwan Pathak (2008) 9 SCC 632**, this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In the case of **Bhuwan Mohan Singh v. Meena (2015) 6 SCC 353**, this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9 years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual. The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.*

119. The rationale of granting maintenance from the date of application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband. Financial constraints of a dependant spouse hampers their capacity to be effectively represented before the Court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the concerned Court.



120. In the case of **Badshah v. Urmila Badshah Godse (2014) 1 SCC 188**, the Supreme Court was considering the interpretation of Section 125 Cr.P.C., 1973 The Court held :

"13.3. ...purposive interpretation needs to be given to the provisions of Section 125 CrPC, 1973. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalized sections of the society. The purpose is to achieve "social justice" which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of the social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society."

121. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all Courts, by directing that maintenance is awarded from the date on which the application was made before the concerned Court. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant."

7.1. The above enunciated legal principle in **Rajnesh** (supra), leaves no room for any doubt(s) as to the date from which the maintenance amount ought to have been awarded. As such, with regard to the period/date of entitlement of the petitioner to receive maintenance, the impugned judgment passed by the learned Family Court is liable to be modified & the same is hereby directed to be paid from the date of filing of the petition under Section 125 Code of Criminal Procedure, 1973 before the Family Court.

8. Accordingly, keeping in view the entirety of facts and circumstance of the case, the quantum of maintenance as awarded by the learned Family Court to the petitioner-wife does not require any



respondent-husband (herein) is directed to pay the maintenance allowance from the date of filing of the petition i.e. 13.01.2022 under Section 125 of Cr.P.C., 1973 before the concerned Family Court instead from the date of the impugned order. The amount already paid by the respondent to the petitioner-wife as interim maintenance or final maintenance, shall be entitled to be adjusted in the same.

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

(SUMEET GOEL)
JUDGE

December 16, 2024
Ajay

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