



CRR(F)-588-2024
CRR(F)-973-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 28.11.2024

1. CRR(F)-588-2024

Sonu Yadav

....Petitioner

V/s

Seema Yadav and another

....Respondents

2. CRR(F)-973-2024

Seema Yadav and another

....Petitioners

V/s

Sonu Yadav

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mukul Khatri, Advocate for the petitioner
in CRR(F)-588-2024 and for the respondent
in CRR(F)-973-2024.

Mr. Vishal Sharma Haritwal, Advocate
for the respondents in CRR(F)-588-2024 and
for the petitioners in CRR(F)-973-2024.

SUMEET GOEL, J. (Oral)

Vide this common order, the afore-said two revision petitions
arising out of the common impugned order are being disposed off. For the
sake of brevity, recitals/facts are being taken from CRR(F)-588-2024.

1. The instant revision petition has been preferred against the
order dated 19.03.2024 passed by the Principal Judge, Family Court,
Gurugram (hereinafter to be referred as ‘impugned order’) praying for
setting-aside/modification of the quantum of interim maintenance awarded

by the said order. Vide the impugned order; the respondents (wife and minor



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son) have been awarded interim maintenance at the rate of Rs.35,000/- per month (i.e. Rs.22,000/- per month to respondent No.1-wife and Rs.13,000/- per month to respondent No.2 (minor son). The respondents (wife and minor son) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and minor son of the petitioner (husband) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. Learned counsel appearing for the petitioner-husband has iterated that the respondent-wife has deserted the petitioner without any valid or reasonable cause which disentitles her from claiming any form of maintenance from the petitioner. It has been further submitted that the Family Court has grossly erred in computing the income of the petitioner and other financial obligations, leading to an arbitrary and excessive interim maintenance. It has been further argued that the Family Court has lost sight of the fact that the interim maintenance granted in favour of the respondent-wife is wholly wrong as also misconceived and against the facts and circumstances of the case. It has been further argued that it is well settled principle of law that when a spouse voluntarily withdraws from the company of other without sufficient cause, she is not entitled to claim maintenance under such circumstances. Learned counsel has further argued that, in any case, the Family Court has adopted a wholly wrong approach while granting the quantum of interim maintenance and the same has been erroneously fastened upon the petitioner. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be set-aside.



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3. *Per contra*, learned counsel for the respondents has iterated that the learned Family Court though has determined the quantum of maintenance based on the facts and circumstances of the case but the same deserves to be enhanced by taking into consideration the earning capacity as well as financial status of the petitioner, who is earning handsomely. Learned counsel has further iterated that the respondent-wife has no independent source of income and the respondents require a minimum monthly maintenance of Rs.1.5 lacs particularly in a high cost city like Gurugram. According to learned counsel, the cost of living in such an expensive city further underscores the financial strain faced by the respondents. Moreover, respondent No.2 (minor child), being in his formative years, is currently pursuing higher education at Gyan Devi Senior Secondary School, Gurugram. In addition to his school fees, which is approximately Rs.40,000/- per month, respondent No.2-minor child is also attending coaching classes, which adds to the financial burden. Furthermore, the cost of education and associated expenses continues to rise with each passing day, placing an additional financial strain on the respondents. Given these circumstances, learned counsel prays that the quantum of interim maintenance awarded vide impugned order is inadequate and the same deserves to be modified and enhanced accordingly.

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 ***Rajnesh 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.*

xxx	xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx	xxx



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(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, 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. The factum of marriage as also the birth of respondent No.2 (minor son), born out of the wedlock, is not in dispute The facts of the instant case reflect that vide the impugned order; the respondents, who are the wife and minor son of the petitioner-husband, have been granted interim maintenance at the rate of Rs.35 ,000/- per month (i.e. Rs.22,000/- per

month to respondent No.1-wife and Rs.13,000/- per month to respondent



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No.2 (minor son). While going through the impugned order, it is not decipherable whether the parties (i.e. the petitioner-husband and the respondent-wife), have placed on record the affidavits with regard to the disclosure of their respective incomes, assets and liabilities in terms of the judgment of the Hon'ble Supreme Court titled as ***Rajnish*** case (supra). However, during the course of arguments, learned counsel for the petitioner-husband has handed-over the photocopies of the affidavit(s) of Disclosure of Assets and Liabilities of the rival parties, which is taken on record. Before the Family Court, the respondent-wife has submitted that she incurs significant expenses, including Rs.12,000/- per month as house rent, Rs.19,200/- towards the fees of respondent No.2-minor son and Rs.9500/- quarterly for cricket coaching fee of respondent No.2-minor son. Additionally, she had also paid a sum of Rs.48,700/- as an admission fees for the respondent No.2. She has further alleged that the petitioner-husband (herein) was previously engaged in running a dhaba on Karnal highway; was a partner in Raghunandan Jewellery shop and had purchased a Jeep Compass car worth Rs.25 lacs. She further claimed that the petitioner-husband had also solemnized second marriage with Ruhi alias Mamta and a girl child was born out of the said wedlock. Conversely, the petitioner-husband, while refuting these allegations, asserted that the Jeep Compass car was purchased on loan and subsequently sold. The petitioner-husband had further asserted that he no longer runs any dhaba and is not a partner in the jewellery business. In spite of these claims, the Family Court observed that the petitioner-husband had failed to produce any bank statements or income tax



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returns which suggest that an attempt has been made by him to withhold the material evidence regarding his actual income. In light of the facts and circumstances that has emerged, the Family Court observed that the respondents (herein) cannot be left in destitution. Furthermore, considering the financial burden on the respondent-wife particularly in relation to the upbringing and welfare of the minor son, which she cannot bear alone and hence it is just and appropriate that the adequate provisions are made at this stage to support the respondents (herein) until the final resolution of the dispute.

7.1 It is trite law that the financial capacity of the husband and the needs of the wife must be balanced in determining the quantum of maintenance, ensuring that the wife is not subjected to financial hardship. In the considered opinion of this Court, the wife is entitled to maintenance in a manner befitting the standard of living she as accustomed to during her marital life, subject to the financial capabilities of the husband. It is both the legal and moral duty of the husband to provide adequate maintenance to his legally wedded wife, ensuring she has sufficient means to meet her basic necessities of life. The respondent-husband, in his reply and affidavit filed before the Family Court, has unequivocally admitted the factum of the marriage with the petitioner-wife. Furthermore, as an able-bodied and educated individual, the respondent-husband is under a moral and legal obligation to maintain his wife, who is unable to sustain herself during the pendency of the present proceedings. Considering the socio-economic status of the parties, the rising cost of living and the escalating expenses for basic



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necessities such as food, shelter, clothing, medical care and other contingencies, it is evident that the petitioner-wife requires a reasonable amount to maintain herself with dignity and hence the current interim maintenance amount should be increased.

7.2 The contentions raised by the learned counsel for the parties in the present two petition(s) that the respondent-wife possesses sufficient means/income to maintain herself and the minor son or the Family Court has grossly erred in computing the income of the petitioner-husband, are in-fact, a matter of trial and the same cannot be ratiocinated upon by this Court 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/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, both the petition are 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.



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

(SUMEET GOEL)
JUDGE

November 28, 2024
Ajay

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