



249

**IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRR(F)-759-2023 (O&M)****Date of Decision: 28.08.2024****LIVTAR SINGH KAHLON****...Petitioner****V/S****CHARU SAGAR AND ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Anmol Gupta, Advocate for
Mr. Abhinav Sood, Advocate for the petitioner.

Mr. Gurmandeep Singh Sullar, Advocate,
Mr. Haneesh Kumar, Advocate and
Mr. Iranpreet Singh, Advocate for
Ms. Devaki Anand Sullar, Advocate for the respondents.

**********HARPREET SINGH BRAR J. (Oral)**

1. The petitioner is challenging the orders dated 28.03.2023 as passed in two maintenance petitions bearing No. MNT No. 258 of 2020 and MNT No. 259 of 2020 filed by his wife and daughter, respectively seeking grant of interim maintenance, whereby interim maintenance to the tune of Rs. 50,000/- per month to respondent No. 1 and Rs. 20,000/- per month to respondent No. 2 (minor child of the parties), has been directed to be paid.

2. Brief facts of the case are that the marriage of the petitioner and respondent No. 1 is admitted. Out of the said wedlock, one child i.e. respondent No. 2, was born. However, matrimonial dispute ensued between the couple and respondents filed two petitions under Section 125 Cr.P.C. seeking maintenance. The petitioner-husband filed a reply and contested the claim made by the respondents. The learned Family Court vide two separate orders dated 28.03.2024 awarded interim maintenance to the tune of Rs. 50,000/- per month and Rs. 20,000/- per month to respondent No. 1-wife and respondent No. 2-daughter

**CRR(F)-759-2023 (O&M)****-2-**

respectively. Aggrieved by the same, the petitioner has approached this Court by filing the present revision petition.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been making payment of interim maintenance in the collateral proceedings, which have been separately instituted under the provisions of Protection of Women from Domestic Violence Act, 2005 by respondent No. 1- wife. The aforementioned order was passed on 02.08.2021, in which the petitioner was directed to pay Rs. 30,000/- per month to respondent-wife and minor daughter and the present proceedings have emanated from Section 125 Cr.P.C., in which learned Family Court has passed the interim orders on 28.03.2023 and learned Court below has not taken into consideration the amount of maintenance awarded under the provisions of Protection of Women from Domestic Violence Act, 2005. The impugned order was passed later in time. As such, the petitioner is entitled to have the same adjusted, set off in the subsequent proceedings as learned Court below has not acted in accordance with guidelines issued by Hon'ble Apex Court in **Rajnesh v. Neha and another (2021) 2 SCC 324**, qua successive claims. Lastly it was contended that in view of guidelines issued in **Rajnish (supra)**, any maintenance being paid to wife under any proceedings is required to be set off while determining the amount of maintenance under Section 125 Cr.P.C. by learned Family Court.

4. Learned counsel for respondents submits that the petitioner is having huge agricultural income therefore he is liable to pay maintenance to the respondents in terms of the impugned order.

**CRR(F)-759-2023 (O&M)****-3-**

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, the matter is taken up for disposal.

6. In view of the facts and circumstances of the case, both the impugned orders dated 28.03.2023 passed by learned Additional Principal Judge, Family Court, Gurugram are hereby set aside and the matter is remanded back to the learned Family Court, Gurugram. The learned Court below is directed to pass a fresh order on the application for interim maintenance filed by the respondents, strictly in accordance with law laid down by Hon'ble Supreme Court in **Rajnish v. Neha and another (2021) 2 SCC 324** and Family Court, Gurugram is also directed to adjust the amount of maintenance allowance awarded under the Protection of Women from Domestic Violence Act, 2005 or any in any other collateral proceedings, at the time of awarding interim maintenance allowance under Section 125 Cr.P.C. Learned Family Court is directed to decide the petition seeking interim maintenance expeditiously as the petitions under Section 125 Cr.P.C. were initially instituted in the year 2020.

7. Needless to say that till the matter is decided afresh by learned Family Court below, the petitioner would be liable to pay the interim maintenance to respondents in terms of impugned order.

8. The present petition stands disposed of accordingly.

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

(HARPREET SINGH BRAR)
JUDGE

28.08.2024
Ajay Goswami