



CRR(F)-728-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR(F)-728-2024 (O&M)

Date of decision: 25.11.2024

Sumit Kumar

....Petitioner

V/s

Sushma and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Nikhil Mittal, Advocate for the petitioner.

Mr.Pardeep Panwar, Advocate for the respondents.

SUMEET GOEL, J.(Oral)

1. Present revision petition has been preferred against the order dated 23.01.2024 passed by the Principal Judge, Family Court, Ambala (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondents (herein) have been awarded interim maintenance at the rate of Rs.9,000/- per month (i.e. Rs.6,000/- per month to respondent No.1-wife and Rs.3,000/- per month to respondent No.2-minor son till he attains the age of majority), to be paid by the petitioner (herein) from the date of application alongwith litigation expenses of Rs.8,000/-.The respondents (herein) 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, respectively, of the petitioner (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. Learned counsel for the petitioner has iterated that the petitioner

is employed as a salesman in a shop in Ambala, while respondent No.1-wife



is a working professional managing a beauty parlour and boutique in Ambala. Furthermore, the respondent No.1-wife, in her affidavit submitted before the Family Court, has stated that she resides in her matrimonial home with her in-laws, who also provide her with financial support which demonstrates that she has sufficient means to support herself. It has been further iterated that the petitioner resides in a rented accommodation, in order to avoid unnecessary litigation, has chosen to live separately from his parents due to strained relations with the respondent-wife. According to learned counsel, the Family Court, while determining the quantum of interim maintenance, has not taken into consideration the inability of the petitioner to pay the excessive amount, given his current financial condition. Learned counsel has further argued that the Family Court has overlooked the income of the petitioner while granting the interim maintenance to the respondents. Thus, it has been prayed that the impugned order is patently illegal, perverse and suffers from material infirmities and the same is liable to be set-aside.

3. *Per contra*, learned counsel for the respondents has argued that the learned Family Court has rightly allowed the application seeking interim maintenance as the respondent-wife has no source of income to maintain herself and her minor son. Furthermore, the Family Court has determined the quantum of maintenance based on the calculation of the income of the petitioner; consideration of the expenditure incurred for the education of respondent No.2 (minor son) as also taken due consideration of the relevant facts and circumstances of the case. Thus, it has been prayed that the present petition be dismissed.



4. I have heard learned counsel for the petitioner and have perused the available 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



(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 is, indubitably, subject to final adjudication and it is a provisional step subject to final determination to be made on the conclusion of proceedings. In other words, the interim maintenance is only tentative & is subject to fixation of final maintenance.

7. It is undisputed that respondent No.1 is their legally wedded wife of the petitioner and respondent No.2 is the minor son, who is living in the care and custody of respondent No.1. The facts of the instant case reflect that vide the impugned order; the respondents, who are the wife and minor son of the petitioner, has been granted interim maintenance at the rate of Rs.9,000/- per month (i.e. Rs.6,000/- per month to respondent No.1-wife and

Rs.3,000/- per month to respondent No.2-minor son till he attains the age of



majority) from the date of application. While going through the impugned order, it transpires that both the parties (i.e. the petitioner-husband and the respondent-wife), have placed on record their respective affidavits with regard to disclosure of their respective incomes, assets and liabilities in terms of the judgment of the Hon'ble Supreme Court titled as **Rajnesh** case (supra). The Family Court upon perusal of the affidavit of the petitioner-husband (herein) held that he has studied upto 10+2 and claimed his monthly expenses ranging between 10,000/- to 15,000/-, while his income is only Rs.8,000/-. In contrast, the respondent-wife, in her affidavit, stated that she is educated up to secondary school and is also taking care of herself and her minor child, who is living in her custody. The Family Court upon perusal of records and evidence of both the rival parties held that as the legally wedded wife of the petitioner-husband (herein), she cannot be denied maintenance. Given the limited educational and qualification of the respondent-wife, which restrict her ability to earn a livelihood, it is unreasonable to rely on the petitioner's claim regarding his income without further scrutiny. Furthermore, it is reasonable to estimate that the petitioner-husband (herein), being professionally qualified, has an income of at least Rs.25,000/- per month. Upon this consideration, the Family Court found it reasonable to award the amount, as indicated hereinabove, as interim maintenance to the respondents.

7.1. Indubitably, the relationship between the parties is undisputed and it is a fundamental legal obligation of the petitioner-husband (herein) to provide financial support to his wife and the minor child, if they are unable



unemployed and bears the sole responsibility of caring for her minor child on account of the matrimonial discord. It is a well established law that a husband cannot escape his duty to provide maintenance to his wife and child, especially when they are financially dependent on him. Matrimonial disputes do not absolve a parent of their responsibility towards their children or spouse and of their duty to uphold the financial stability of the family. Therefore, it becomes imperative for the petitioner-husband to full his legal and moral obligations in ensuring the welfare and sustenance of his dependents. Hence, at this juncture, the contentions raised by learned counsel for the petitioner in the present petition with regard to factual aspect, are matter of trial and no ratiocination on the same can be made at this stage. The same can be ascertained only after adducing evidence by the parties. It is also apparent from the record that the order under challenge is only interim 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.

8. Considering the facts and circumstances of the case, the amount of Rs.9,000/- per month, which has been directed to be paid by the petitioner (herein) to the respondents, 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 case.

9. In view of above, the interim maintenance granted by the Family Court does not call for any interference. Accordingly, the instant

petition is hereby dismissed.



10. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the Family Court shall proceed further, in accordance with law, without being influenced with them.

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

(SUMEET GOEL)
JUDGE

November 25, 2024
Ajay

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