



CRR(F)-733-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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Date of decision: 25.09.2024

1. CRR(F)-733-2024

Neeru and another

....Petitioners

V/s

Vicky Kumar

....Respondent

2. CRR(F)-840 -2024

Vikky Kumar alias Vicky Kumar

....Petitioner

V/s

Neeru and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lalita Kashyap, Advocate for the petitioners  
in CRR(F)-733-2024 and for the respondents  
in CRR(F)-840-2024.

Mr. S.S. Kainth, Advocate for the respondent  
in CRR(F)-733-2024 and for the petitioner  
in CRR(F)-840-2024.

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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)-733-2024.

1. The instant revision petition has been preferred against the order dated 23.04.2024 passed by the Principal Judge, Family Court, Yamuna Nagar at Jagadhri (hereinafter to be referred as ‘impugned order’) praying for modification/setting-aside of the quantum of interim maintenance awarded by the said order. Vide the impugned order; the

petitioners (wife and minor son) have been awarded interim maintenance at

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the rate of Rs.11,000/- per month (i.e. Rs.7,000/- per month to petitioner No.1-wife and Rs.4,000/- per month to petitioner No.2 (minor daughter) from the date of the application. The petitioners (wife and minor daughter) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and minor daughter, respectively, of the respondent (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-wife has argued that the Family Court has overlooked the fact that the petitioner-wife has no substantial source of income as she is a household lady and hence entitled for reasonable maintenance. Learned counsel has further submitted that the petitioners are unable to maintain a minimal standard of living without a just and sufficient interim maintenance amount. According to learned counsel, a paltry sum of Rs.11,000/- per month in the form of interim maintenance is grossly inadequate in order to survive and maintain themselves. According to the learned counsel, the Family Court has failed to appreciate that the respondent-husband has sufficient source of income to support the petitioners as he is working in a Post office and earning handsomely besides other allowances and benefits. Furthermore, it has been further argued that the petitioner No.2 is a minor school going girl who has various additional expenses related to her education and overall development and hence the quantum of interim maintenance awarded vide impugned order is inadequate. Learned counsel has submitted that taking into consideration the ever-increasing costs of living, including essential commodities, education, medical expenses and other household needs, the impugned order deserves

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to be enhanced and modified accordingly. Learned counsel has further submitted the recurring costs have increased significantly due to inflation and increasing living costs, making it impossible for the petitioners to manage on a meagre amount of interim maintenance of Rs.11,000/-. It has been further argued that while passing the impugned order, the Family Court ought to have considered the provisions of Section 125 of Cr.P.C. with a very pedantic approach which are meant for the benefit of the destitute wife and minor child. Hence, it has been prayed that the Family Court has adopted a wholly unpragmatic approach which has caused substantial injustice to the petitioners. Thus, it has been prayed that the impugned order is liable to be modified.

3. *Per contra*, learned counsel for the respondent has argued that the Family Court, while granting the interim maintenance to the petitioners, has completely ignored from consideration the materials placed on record before it. Learned counsel has further argued that the petitioner-wife has deserted the respondent without any reasonable cause. It has been further argued that the respondent-husband has expressed his willingness to reconcile with the petitioners by filing a petition under Section 9 of the HMA, 1955. Learned counsel has argued that the petitioner No.1-wife, is a well qualified lady possessing MBA degree & is imparting tuitions and earning handsomely and hence has sufficient source of income to maintain herself and the minor daughter. Learned counsel has further argued that, in any case, the Family Court has adopted a wholly wrong approach while assessing the quantum of interim maintenance and the same has been



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erroneously fastened upon the respondent. Hence, it has been prayed that the impugned order be set-aside/quashed.

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.*

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, 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 petitioner No.2 (minor daughter), born out of the wedlock, is not in dispute. The facts of the instant case reflect that vide the impugned order; the petitioners, who are the

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interim maintenance at the rate of Rs.11,000/- per month (i.e. Rs.7,000/- per month to petitioner No.1-wife and Rs.4,000/- per month to petitioner No.2 (minor daughter) from the date of the application. The learned Family Court has found that the gross monthly income of the respondent (husband) relying upon the salary slip of December 2023, who is working in a Post Office, is Rs.40,692/- and his net income has been found to be Rs.23,569/- per month. However, the learned Family Court, keeping in view the principles governing the assessment of quantum of maintenance under Section 125 of Cr.P.C., 1973, has taken the net salary of the respondent-husband as Rs. 35,000/- per month, as the deductions made from the gross income, which are on account of own volition of the respondent-husband, cannot be deducted so as to put the petitioners to an undue disadvantage. Conversely, the Family Court emphasized that the petitioner-wife though possesses significant academic qualifications, holding an MBA which indicates her substantial potential for employment, but nothing has been placed on record to show that she was doing any job or had left the job prior to filing of the instant petition in order to claim maintenance. Moreover, the contentions raised by the learned counsel for the parties in the present two petitions that the petitioner-wife, who is highly qualified has sufficient income to maintain herself and the minor daughter or the respondent-husband has sufficient source of income, 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 interim measure in nature and not a final decision of the maintenance petition. The amount of maintenance awarded is always



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subject to the adjustment which will depend on the final outcome of the maintenance petition filed by the petitioner/wife. In the instant case, the amount of interim maintenance, which has been directed to be paid by the respondent-husband (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 petitions 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.

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

(SUMEET GOEL)  
JUDGE

September 25, 2024  
*Ajay*

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