



CRR(F)-770-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR(F)-770-2024 (O&M)

Date of decision: 28.11.2024

Muni Lal

...Petitioner

V/s

Monika Chauhan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. G.S. Brar, Advocate for the petitioner.

Mr. Saurabh Kaushik, Advocate for the respondents.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 18.04.2024 passed by the Principal Judge, Family Court, Nabha (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.22,000/- per month (i.e. Rs.15,000/- per month to respondent No.1-wife and Rs.3500/- per month each to respondent Nos.2 and 3) to be paid by the petitioner-husband (herein) alongwith litigation expenses to the tune of Rs.10,000/-. 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 children of the petitioner (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.
2. Learned counsel appearing for the petitioner has iterated that the petitioner is aggrieved by and is challenging only the interim maintenance awarded to the respondent-wife, while not disputing the interim



maintenance awarded to the minor sons i.e. respondent Nos.2 and 3. It has been further iterated that the interim maintenance awarded to the respondent-wife is disproportionately high and has been granted without properly considering the merits of the case. It has been contended that the respondent-wife has more substantial source of income as compared to the petitioner. Learned counsel has further iterated that, while awarding the interim maintenance, the Family Court has overlooked the fact that the petitioner is burdened with multiple financial responsibilities, including the care of his elderly parents and supporting his younger brother, who is still pursuing his education and requires financial assistance for the continuation of his studies. In light of these obligations, learned counsel asserts that the interim maintenance amount awarded to the respondent-wife is excessive and hence 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 the minor children. 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 Nos.2 and 3 (minor sons) 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 rival parties 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 **Rajnish vs. Neha & Anr.: 2021(2) SCC 324**; relevant whereof reads as under:-

“II Payment of interim Maintenance

1. *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.*
2. *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.

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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. Indubitably, the relationship between the parties as also the birth of the minor sons is not in dispute. The facts of the instant case reflect that vide the impugned order; the respondents, who are the wife and the minor children of the parties, has been granted interim maintenance at the rate of Rs.22,000/- per month (i.e. Rs.15,000/- per month to respondent No.1-wife and Rs.3500/- per month each to respondent Nos.2 and 3). 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 had reviewed the affidavits of the rival parties thoroughly. The petitioner-husband (herein) has denied the averments made in the application regarding his income. The Family Court upon perusal of the affidavit of the petitioner-husband (herein) held that he is employed as a Constable in the Four Commando Battalion, Punjab Police and earning a monthly income of Rs.76,353/-. In contrast, the respondent-wife (herein), has maintained throughout the proceedings before the Family Court that she has no independent source of income to maintain herself and the minor children. Regarding the determination of the interim maintenance to be awarded by the petitioner (herein) to the respondents, the Family Court held that the contentions raised by the petitioner-husband (herein), alleging that the respondent-wife has sufficient means to maintain herself, is a matter that requires proper adjudication through evidence and cannot be accepted at this stage. Accordingly, the Family Court has held that the law governing maintenance emphasizes that the financial capacity of the husband as well as the needs of the wife and inability to maintain herself, must be considered while determining the quantum of maintenance. In light of these principles and the facts presented before the Family Court, an amount of Rs.22,000/- per month, was directed to be paid by the petitioner-husband (herein) by the Family Court vide the impugned order.

7.1. In the considered opinion of this Court, the impugned order is merely an interim measure and to alleviate the immediate financial pressure being faced by the respondents. 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



effectively made at this stage. The same can only be ascertained after the parties adduce evidence. It is also apparent from the record that the order under challenge is only interim in nature and not a final decision on 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.22,000/- per month as interim maintenance, 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 28, 2024
Ajay

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