



216 IN THE HIGH COURT OF PUNJAB AND HARYANA  
CHANDIGARH

CRR(F)-93-2023 (O&M)  
Date of Decision: 12.12.2024

AARTI SHARMA AND ANOTHER

...Petitioners

V/S

RAHUL SHARMA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Gupta, Advocate  
for the petitioners.

Mr. Angreze Singh Dhindsa, Advocate  
for the respondent.

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

1. The petitioner is challenging the order dated 24.05.2022 passed by learned Additional Principal Judge, Family Court, Ambala in case bearing No. 123 of 2021 (CIS No. MNT/214/2021) whereby interim maintenance amount of Rs. 6,000/- per month (Rs. 4,000/- per month to petitioner No. 1-wife and Rs. 2,000/- per month to petitioner No. 2-minor son) has been awarded to the petitioners.

2. The marriage between the petitioner No. 1-wife and respondent-husband was solemnized on 05.02.2018 according to Hindu rites and ceremonies. One child i.e. petitioner No. 2 herein, was born from the said wedlock. However, matrimonial dispute ensued between the couple and the petitioners filed a petition under Section 125 Cr.P.C. seeking maintenance. Respondent-husband contested the claim made by petitioners and filed reply to the said petition. Learned Family Court, Ambala vide impugned order dated 24.05.2022 awarded interim maintenance to the tune of Rs. 6,000/- per month

(Rs. 4,000/- per month to petitioner No. 1-wife and Rs. 2,000/- per month to petitioner No. 2-minor son) in favour of petitioners. Aggrieved by the same, petitioners have preferred this revision petition.

3. Learned counsel for the petitioners *inter alia* contends that learned Family Court, Ambala has awarded a very meagre amount of Rs. 6,000/- per month in favour of both the petitioners as interim maintenance. Admittedly, the respondent is working as a Clerk in Government Senior Secondary School, Bhedwal, Patiala and drawing a salary of Rs. 49,060/- per month. Learned Family Court has wrongly included other deductions from the salary of respondent as it is a trite law that only statutory deductions are required to be made during maintenance assessment and reliance in this regard has been placed upon ratio of law laid down by this Court in ***Mukesh Kumar vs. Rekha Rani and another, 2018(3) RCR (Criminal) 135.***

4. *Per contra*, learned counsel for the respondent submits that respondent is incurring expenditure on transportation, electricity, water and sewerage bill, grossery bill, milk and medicine for his mother and also paying installments towards the Life Insurance Corporation Policy and his monthly expenses are around Rs. 36,000/- and his carry home salary is only Rs. 13,000/- per month. As such, the learned Family Court has passed a well reasoned order on appreciation of facts and circumstances of the case.

5. Having heard learned counsel for the parties and after perusing the record, it transpires that learned Court below has wrongly included the deductions from the salary of the respondent. It is a trite law that at the time of

assessing income only statutory deductions are required to be made and voluntary expenses cannot be deducted to arrive at his income.

6. It is also significant to note that the respondents liability towards payment of installments of Insurance Policy availed by him is not material for assessment of quantum of maintenance to be awarded to the petitioners in view of the judgment rendered by this Court in ***Mukesh Kumar vs. Rekha Rani and another, 2018(3) RCR (Criminal) 135*** wherein speaking through Justice Jaishree Thakur, the following was held:

*“a person cannot be permitted to wriggle out of his statutory liability by way of availing huge loans and reducing the substantial amount of salary for repayment of the same every month.”*

7. Further, in view of ratio of law laid down by Hon’ble Supreme Court in ***Kalyan Dey Chowdhary vs. Rita Dey Chowdhary Nee Nandy AIR 2017 SC 2383***, it would be appropriate to award one fourth of the net salary of the respondent-husband to petitioner No. 1-wife.

8. In view of the discussion above, present petition is allowed and impugned order dated 24.05.2022 passed by learned Additional Principal Judge, Family Court, Ambala, is set aside. The matter is remanded back to learned Additional Principal Judge, Family Court, Ambala with a direction to decide the application seeking maintenance filed by the petitioners expeditiously, preferably within a period of three months from the date of receipt of certified copy of this order, strictly in terms of the ratio of law laid down by Hon’ble Supreme Court in ***Kalyan Dey Chowdhary(supra)*** and ***Rajnesh v. Neha and***

*another (2021) 2 SCC 324* and the judgment passed by this Court in *Mukesh Kumar(supra)*.

9. Pending CRM(s), if any, are also disposed of accordingly.

12.12.2024  
*Ajay Goswami*

(HARPREET SINGH BRAR)  
JUDGE

|                                  |               |
|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |