

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-27564-2024 in/and
CRR(F)-890-2024
Date of decision: 16.07.2024

....Petitioners

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lajpat Rai Sharma, Advocate
for the petitioners.

HARPREET SINGH BRAR, J. (ORAL)

CRM-27564-2024

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 48 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 48 days in filing the present revision petition is hereby condoned.

CRR(F)-890-2024

The present revision petition has been preferred against the impugned judgment dated 23.02.2024 passed by the learned Additional Principal Judge, Family Court, Ganaur, District Sonipat, under Section 125 of the Cr.P.C. vide which the maintenance of Rs.17,000/- per month was awarded to petitioners No.1 to 3 (i.e. Rs.8,000/- to petitioner No.1, Rs.5,000/- to petitioner No.2 and Rs.4,000/- to petitioner No.3) and nothing has been granted to petitioner No.4 and also the learned Family Court granted the maintenance from the date of order.



CRM-27564-2024 in/and
CRR(F)-890-2024

-2-

Brief facts of the case are that the marriage of petitioner No.1 and the respondent was solemnized on 03.04.1995 in accordance with Hindu rites and ceremonies. Out of this wedlock, petitioners No.2 to 4 were born. It is further alleged that on account of extra-marital affair of the respondent, the relations between petitioner No.1 and the respondent became strained. However, matrimonial dispute ensued between the couple and the petitioners filed a petition under Section 125 Cr.P.C. seeking maintenance. The respondent filed a reply and contested the claim made by the petitioners. The learned Family Court vide order dated 23.02.2024 granted maintenance allowance of Rs.17,000/- per month in favour of the petitioners from the date of order of maintenance. Aggrieved by the same, the petitioners has approached this Court by filing the present revision petition.

Learned counsel for the petitioners *inter alia* contends that the learned Family Court, Ganaur, District Sonipat, has fallen into grave error by awarding maintenance from the date of impugned judgment. It is further contended that it is a settled law that the maintenance is to be awarded from the date of the filing of the application. In this regard, he relies upon the ratio of law as laid down by the Hon'ble Supreme Court in '**Rajnesh v. Neha and another**' (2021) 2 SCC 324.

Having heard learned counsel for the petitioners and after perusing the record with his able assistance, the present petition is being decided in *limine* in view of directions issued by the Hon'ble Supreme Court in '**Rajnesh v. Neha and another**' (2021) 2 SCC 324, in order to save litigation cost of the respondent and judicial time of the Court.

While dealing with the issue, a two Judge bench of the Hon'ble



Supreme Court in **Rajnesh's case (supra)**, laid down the criteria and issued the following directions:

“VI Final Directions

130. *In view of the foregoing discussion as contained in Part B -I to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:*

(a) Issue of overlapping jurisdiction

131. *To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:*

(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;

(ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;

(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding

(b) Payment of Interim Maintenance

132. *The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.*

(c) Criteria for determining the quantum of maintenance

133. *For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B III of the judgment.*

134. *The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.*

(d) Date from which maintenance is to be awarded

135. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.

(e) Enforcement/Execution of orders of maintenance

136. *For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the*



CRM-27564-2024 in/and
CRR(F)-890-2024

-4-

Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI." (emphasis added)

In view of the facts and circumstances of the case and after perusal of the record, it transpires that in para 17 (page 10) of the impugned judgment, petitioner No.4 was not awarded any maintenance. However, the same para continues to state on page 11 that petitioner No.4 would be entitled to maintenance allowance only till he attains majority. Further, in view of the settled law with regard to awarding maintenance from the date of application as authoritatively laid down in ***Rajnish's case (supra)***, this Court finds force in the arguments advanced by learned counsel for the petitioners.

In view of the above, the present petition is allowed and the impugned order dated 23.02.2024 is hereby set aside and the matter is remanded back to the learned Family Court, Ganaur, District Sonipat and the Court below is directed to pass a fresh order expeditiously, strictly in accordance with law as laid down in ***Rajnish's case (supra)***.

The present petition stands disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

16.07.2024

Neha

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