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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

253 (2 cases)

Date of decision: 12.12.2024

1. CRR(F)-1059 -2023

Gourav Arora alias Gaurav Arora

....Petitioner

V/s

Priyanka and another

....Respondents

2. CRR(F)-1033-2023

Priyanka and another

....Petitioners

V/s

Gaurav Arora

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Chhavi Sharma, Advocate for the petitioner
in CRR(F)-1059-2023 and for the respondent
in CRR(F)-1033-2023.

Mr. G.C. Shahpuri, Advocate for the respondents
in CRR(F)-1059-2023 and for the petitioners
in CRR(F)-1033-2023.

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)-1059-2023.

1. The instant revision petition has been preferred against the order dated 08.05.2023 passed by the Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri (hereinafter to be referred as ‘impugned order’) praying for setting-aside/modification of the quantum of interim

Maintenance awarded by the said order. Vide the impugned order; the



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respondents (wife and minor son) have been awarded interim maintenance at the rate of Rs.8,000/- per month (i.e. Rs.4,000/- per month to respondent No.1-wife and Rs.4,000/- per month to respondent No.2 (minor son)) from the date of application till its final disposal. The respondents (wife and minor son) 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 of the petitioner (husband) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. At the outset, learned counsel appearing for the petitioner has submitted that the petitioner does not pose a challenge to the interim maintenance awarded to respondent No.2-minor son but challenges the interim maintenance granted to respondent No.1 on the ground of her adulterous conduct. Learned counsel has iterated that the respondent-wife has deserted the petitioner without any valid or reasonable cause which disentitles her from claiming any form of maintenance from the petitioner. It has been further iterated that from the bare perusal of affidavit of assets and liabilities filed before the Family Court (copy whereof has been annexed as Annexure P-6 with the instant petition), the monthly income of the petitioner is Rs.24,200/- out of which he is liable to pay an EMI of Rs.15,686/- towards a personal loan. According to learned counsel, the impugned order granting interim maintenance to respondent No.1-wife is wholly unjust and incorrect as despite being the legally wedded wife of the petitioner, she voluntarily left the company of the petitioner and is alleged to be living in adultery with one Sunny Basatia. It has been further submitted that the petitioner has



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photographs containing explicit material involving respondent No.1 and the said Sunny Basatia but the Family Court has failed to consider this aspect before assessing the quantum of interim maintenance. These materials unequivocally establish that respondent No.1 is living in adultery which disqualifies her from claiming interim maintenance under the settled principles of law. It has been further argued that it is well settled that a wife who is living in adultery is not entitled to claim maintenance from her husband. Furthermore, the marital relationship alone does not suffice to grant her such entitlement in the present circumstances. Learned counsel has further argued that, in any case, the Family Court has adopted a wholly wrong approach while granting the quantum of interim maintenance and hence it has been prayed that the quantum of interim maintenance awarded vide impugned order be set-aside *qua* respondent No.1-wife.

3. *Per contra*, learned counsel for the respondents has iterated that the learned Family Court though has determined the quantum of maintenance based on the facts and circumstances of the case but the same deserves to be enhanced by taking into consideration the earning capacity as well financial status of the petitioner, who is earning handsomely. Learned counsel has further iterated that the respondent-wife alongwith her minor child, is leading a difficult and dependent life, entirely reliant on the support of her parents. It has been further submitted that the respondent-wife has no independent source of income and is also responsible for maintaining her minor son, which includes his monthly school fee alongwith bus fees and other miscellaneous expenses which further underscores the financial strain



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associated expenses continues to rise with each passing day, placing an additional financial strain on the respondents. Given these circumstances, learned counsel prays that the quantum of interim maintenance awarded vide impugned order is inadequate and the same deserves to be modified and enhanced accordingly.

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*



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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.*

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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.



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7. Indubitably, the factum of marriage as also the birth of respondent No.2 (minor son), born out of the wedlock, is not in dispute. The facts of the instant case reflect that vide the impugned order; the respondents, who are the wife and minor son of the petitioner-husband, have been granted interim maintenance at the rate of Rs.8,000/- per month (i.e. Rs.4,000/- per month to respondent No.1-wife and Rs.4,000/- per month to respondent No.2 (minor son)). Though petitioner has not posed challenge to the interim maintenance granted to respondent No.2-minor son. While going through the impugned order, it transpires that both the parties have submitted their affidavits in terms of the judgment passed by Hon'ble Supreme Court in the case of **Rajnesh** case (supra). In her affidavit of assets and liabilities, the respondent-wife stated that she holds a graduate degree and disclosed her monthly expenditure as approximately Rs.15,000/-. Under the column regarding dependent family members, respondent No.1-wife has mentioned her minor son as being dependent upon her, with his monthly expenditure amounting to Rs.10,000/-. Furthermore, she has stated that her husband (petitioner herein) holds a B.Tech degree and is earning Rs.40,000 per month and disclosed her monthly income as 'Nil'. Conversely, the petitioner-husband (herein) has disclosed his monthly income as Rs.24,200/- while working as trainer. Under the column regarding moveable and immovable assets, the petitioner-husband (herein) has stated 'No' indicating that he does not own any such assets. He has, however, detailed his financial liabilities, including a personal loan of Rs.4,89,000/- for which he is paying an EMI of Rs.15,686/-. The Family Court observed that the

affidavits filed by both the parties reflect that both the parties are struggling



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financially, albeit with the respondent-wife being in a more precarious position due to her lack of independent income. Based on the evidence on record, the Family Court had directed the petitioner-husband (herein) to pay the amount of interim maintenance to the respondents (herein) as indicated hereinabove.

8. It is apt to mention herein that the husband has both a moral and legal obligation to provide financial support to his wife unless there are substantial legal grounds to deny her maintenance. Furthermore, it is trite law that the duty to maintain one's wife and the minor child is a personal and statutory obligation under Section 125 of the Code of Criminal Procedure, irrespective of other financial liabilities, unless demonstrated to be insurmountable. It has been consistently held that the financial responsibility of a husband towards his wife and child is paramount, and wife and a child cannot be left destitute merely because the husband has other financial commitments. Moreover, the contentions raised by the learned counsel for the parties in the present two petition(s) that the respondent-wife is not entitled to any interim maintenance as he voluntarily left the company of the petitioner-husband and was allegedly involved in an illicit relationship or the Family Court has grossly erred in computing the income as also other financial liabilities of the petitioner-husband, are in fact, a matter of trial and the same should not be ratiocinated upon by this Court at this stage. The same can be properly examined and adjudicated upon once evidence is adduced by both the parties. Moreover, the impugned order is only an 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 respondent/wife. In the instant case, the amount of interim maintenance, which has been directed to be paid by the petitioner (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.

9. 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.
10. 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.
11. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

December 12, 2024
Ajay

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