

CRR(F)-1156-2023 (O&M) and
CRR(F)-1180-2023 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 15th April, 2024

1. CRR(F)-1156-2023 (O&M)
Ankush Sharma ...Petitioner(s)
Versus
Smt. Radhika Sharma and another ...Respondent(s)

2. CRR(F)-1180-2023 (O&M)
Smt. Radhika Sharma and another ...Petitioner(s)
Versus
Ankush Sharma ...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Keshav Pratap Singh, Advocate for the petitioner
in CRR(F)-1180-2023 (O&M) and
for the respondent in CRR-1156-2023 (O&M).

Mr. Sanjay Verma, Advocate for the respondent in
CRR(F)-1156-2023 (O&M) and
for the petitioner in CRR(F)-1180-2023 (O&M).

MANISHA BATRA, J :-

This common order shall dispose of above mentioned two
revision petitions as the order impugned therein is the same.

2. Both the above mentioned revision petitions have laid challenge
to the order dated 12.05.2023 passed by the learned Principal Judge, Family
Court, Panchkula in case bearing MNT No. 31/2021 titled as ‘Radhika

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Sharma and another Vs. Ankush Sharma' whereby the respondent-Ankush Sharma was directed to pay maintenance to the tune of Rs. 35,000/- to petitioner No.2 from the date of filing of petition i.e. 19.02.2021 till 12.05.2023 and thereafter, at the rate of Rs. 40,000/- per month to petitioner No.1 and Rs. 60,000/- per month to petitioner No.2 i.e. total Rs. 1,00,000/- per month by laying down certain other conditions.

3. For the sake of continuity and coherence, hereinafter the parties shall be referred to as per their original nomenclature as given in main petition before the Family Court.

4. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned petition under Section 125 of Cr.P.C. had been filed by the petitioner No.1 for herself and on behalf of minor petitioner No.2 who is her son on the averments that she was married with respondent on 02.05.2015 according to Hindu rites and ceremonies. Petitioner No.1 as well as respondent were working in private sectors. The petitioner No.1 alleged that the behaviour of the respondent and his family members did not remain proper with her after marriage. They used to taunt her during her pregnancy period and she was not taken proper care of. She was even being pressurized to convince her parents to sell their house and the respondent and his mother used to physically assault her. She was ultimately compelled to leave her matrimonial home and had come to her parental house at Panchkula alongwith petitioner No.2. She pleaded that she was doing a private job at Gurugram and was drawing salary of

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Rs.1,50,000/- per month whereas the respondent was working in Hyderabad and was earning a sum of more than Rs. 34,00,000/- per annum. He also had substantial amount of money in the form of fixed deposit receipts. She prayed for directing the respondent to make payment of maintenance at the rate of Rs.1,00,000/- per month to her son as well as herself. It is further revealed that the respondent filed reply before the learned Family Court alleging that it was the petitioner No.1 who was responsible for matrimonial discord as she was under the influence of her family members. Her aim was to extract money from the respondent and his family members. She herself had left the matrimonial house without any cause. She was getting salary of Rs.2,00,000/- per month approximately and had made several investments in stock market etc. He claimed his monthly salary to be Rs. 1,74,000/- and prayed for dismissing the petition.

5. Learned trial Court had framed issues keeping in view the contentions raised by the parties. The parties were allowed to lead evidence. Thereafter, on appraising the evidence so produced and considering the contentions of the parties, the petition filed by the petitioners was disposed of with the aforementioned directions as discussed in para No. 1 of this order.

6. Feeling dissatisfied, the petitioners as well as respondent have filed the instant petitions. In their petition, the petitioners have prayed for enhancement in the amount of maintenance as directed to be paid to them. It is argued by learned counsel for the petitioners that the impugned order is

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liable to be modified and the amount of maintenance as directed to be paid to the petitioners deserves to be enhanced keeping in view the fact that it is the respondent who has neglected and refused to maintain the petitioners and has compelled the petitioner No.1 to leave her matrimonial house. It is submitted that the maintenance granted to petitioners is on lower side as while passing the impugned order, it was ignored that the respondent was working in a multinational company and was drawing salary approximately @ Rs.46,00,000/- per annum. He has no other financial liabilities as his own parents are retired from government service and are drawing sufficient amount of money by way of pension.

7. It is further argued that while leading evidence, several documents had been produced on record by the petitioner to prove the details of the day to day expenditure being borne by the petitioner No.1 for the welfare and education of minor petitioner No.2. The expenditure of petitioner No.2 included school fees, transportation, medical expenses, extra curricular activities and clothing etc. She has given the details of the expenditure of petitioner No.2 in a tabulated form in para No. 8 of the petition and has also annexed some receipts and bills to show the fees and other purchases made by her for her son and it is stressed that the maintenance amount to the tune of Rs.60,000/- directed to be paid to petitioner No.2 is not at all sufficient. It is also argued that the respondent owns substantial properties at Bangalore which are worth crores of rupees.

His bank record shows that deposits of huge amounts of money. He is also

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fetching rental income. The petitioners are entitled to the same status which must be at par with the status of the respondent and with these broad submissions, it is urged that the impugned order is liable to be modified and they deserve to be given maintenance, minimum at the amount of Rs. 1,00,000/- per month each.

8. On the other hand, in the revision petition filed by the respondent, it is submitted and it is argued by learned counsel for the respondent that the impugned order is liable to be set aside to the extent to which he has been directed to pay maintenance at the rate of Rs. 40,000/- per month to petitioner No.1 wife and is liable to be modified to the extent to which maintenance to the tune of Rs. 35,000/- and then Rs. 60,000/- has been directed to be paid by him to petitioner No.2. it is argued that the amount of maintenance so directed to be paid to the minor child of the respondent is liable to be reduced as since the petitioner No.1 is also earning handsome amount of money, therefore, it is her equal responsibility to contribute in the maintenance of the minor petitioner No.1.

9. Learned counsel for the respondent has further submitted that the petitioner No.1 has herself been fetching income of approximately Rs. 30,00,000/- per annum, therefore, no ground whatsoever had been made out for awarding any maintenance to her. Moreover, the respondent has never neglected and refused to maintain either of the petitioners and it is petitioner No.1 who had chosen to live separately from him w.e.f. 18.01.2021.

Accordingly, it is argued that the revision petition as filed by the respondent

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deserves to be allowed.

10. I have heard learned counsel for the parties and have gone through the record carefully.

11. Section 125 of Cr.P.C. provides a swift remedy against any person who neglects or refuses to maintain his wife or children. The prime object of this provision is to prevent starvation and vagrancy and to compel a man to perform the moral obligation which he owes to the society in respect of his wife and children so that they are not left beggared or destituted on the scrapheap of the society and thereby driven to a life of vagrancy, immorality and crime for their subsistence. The powers under this Section are to be exercised with discretion in a judicious manner which is consistent with the language of the statute with regard to the other relevant circumstances. The Hon'ble Supreme Court in its celebrated judgment titled as '**Rajnish v. Neha and another**', 2021 (2) SCC 324 has issued detailed guidelines about the manner in which maintenance payable under Section 125 of Cr.P.C. is to be assessed by observing that the terms of maintenance are to be decided on the basis of pleadings of the parties and on basis of some amount of guess work and further to ensure that the depending spouse is not reduced to destitution or vagrancy and not as a punishment to the other spouse.

12. As per **Rajnish's case (supra)**, the factors which would weigh with the Court *inter alia* are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source

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of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. It has also been well settled that the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiraling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income *ipso facto* does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications.

13. Reliance can also be placed upon ***Manish Jain vs. Akanksha Jain : (2017) 15 SCC 801***, wherein Hon'ble Supreme Court had observed that the maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife and the child

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are able to maintain themselves with reasonable comfort.

14. In the instant case, admittedly, the parties are living separately. It is also not in dispute that the petitioner No.1 as well as respondent are working. The petitioner No.1 is shown to have placed on record copy of an affidavit duly sworn by her admitting her annual income to be Rs. 29,50,000/- as in the financial year 2021-22 whereas the respondent in his affidavit had shown his monthly income to be Rs. 1,74,000/-. He is also shown to have submitted that he is joint owner of two flats at Bangalore and that he relinquished his share in those flats shortly before the litigation was initiated against him by his wife. In the income tax return for the assessment year 2021-22, his annual income is mentioned is 36,64,351/-. The learned Family Court had observed that the income of the respondent was much more than the income of petitioner No.1 as withdrawals worth lacs of rupees were shown to have been made from his bank account in the name of his sister. The Court also relied upon EX-D6 pay slip of the respondents showing his monthly salary to be Rs. 3,83,847/- and by taking overall evidence produced on record into consideration, had directed the respondent to pay maintenance amount as mentioned above.

15. The well settled proposition of law is that while passing order of grant of maintenance the living standard of the husband, his family as well as the fact that the wife and child are entitled to have the same status which they were maintaining while the wife was living in her matrimonial house are to be taken into consideration, along with the financial capacity of

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the husband, his actual income, reasonable expenses for his own maintenance and liabilities, if any. At this stage, there is nothing on record to show that the respondent is having any other liabilities. The learned Family Court after considering income of both petitioner No.1 and respondent has given direction to pay interim maintenance to the tune of Rs. 35,000/- per month to petitioner No.2 from the date of filing of the petition till the date of judgment and thereafter, to the tune of Rs. 60,000/- per month till he attains the age of majority, whereas, petitioner No.1 has been directed to be paid the maintenance to the tune of Rs. 40,000/- per month w.e.f. 12.05.2023. Keeping in view the financial capacity of the respondent, the amount of maintenance as directed to be paid by him to his minor child cannot at all stated to be excessive or exorbitant. Nor it can be said to be so meager that it is not sufficient to maintain the petitioner No.2.

16. Further, so far as the amount of Rs. 40,000/- as directed to be paid by the respondent to petitioner No.1 by way of maintenance is concerned, no doubt, the petitioner No.1 is also working and is drawing good amount of salary. However, the income of the respondent is much more than her income as discussed above. It is well settled proposition of law is that a wife is entitled to maintain same standard of living which she was accustomed to while she was living with her husband. The petitioner No.1 is looking after the minor petitioner No.2 and it can reasonably be presumed that she also must have been making contributions from her own income for the proper upkeep of her child. The obligation of the respondent being

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husband to maintain his wife always stands at a higher pedestal. The respondent himself admitted that he was owner of two apartments. Though the plea taken by him was that he had relinquished his share in the same but in whose favour the said share has been relinquished has not been clarified, which shows that the same had been done to avoid liability to pay maintenance. For the purpose of maintaining the same standard of life which is at par with the standard of living of the respondent, the Court is required to take into status of the respondent and also his potential capacity to earn. In my considered opinion, keeping in view the overall facts and circumstances, the learned Family Court rightly passed to order for grant of maintenance to the petitioner No.1 and the amount of maintenance which was directed to be paid by the respondent to petitioner No.1 could not be stated to be exorbitant or excessive neither the order passed by the learned family Court for grant of this much amount can be stated to be unreasonable. Rather the same is just and realistic for the purpose of making the petitioners live a life of dignity.

17. In view of this discussion, it is held that the prayer made by the petitioners for enhancement in the amount maintenance directed to be paid by the respondent as well as prayer made by the respondent for setting aside the impugned order do not deserve to be accepted. The order passed by the family Court cannot be stated to be suffering from any illegality much less infirmity. Accordingly, it is held that the findings given by the family Court deserve to be upheld and do not warrant any interference by this Court.

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Hence, the petitions filed by both the parties are ordered to be dismissed.

18. Since the main petitions have been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

15th April, 2024

Parveen Sharma

1. Whether speaking/ reasoned

2. Whether reportable

:

:

Yes

Yes