



CRR(F)-363-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

241 (2)

Date of decision: 25.09.2024

1. CRR(F)-363-2021

Devika and another ...Petitioners

V/s

Pawan ...Respondent

2. CRR(F)-368-2021

Pawan Kumar ...Petitioner

V/s

Devika and another ...Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Kanhiya Soni, Advocate for the petitioners
in CRR(F)-363-2021 and
for the respondents in CRR(F)-368-2021.

Mr. Bhuvnesh Lakheria, Advocate for the respondent
in CRR(F)-363-2021 and for the petitioner
in CRR(F)-368-2021.

SUMEET GOEL, J. (Oral)

Vide this common order, the two aforementioned revision
petitions arising out of the common impugned order are being disposed of.
For the sake of brevity, recitals/facts are being taken from CRR(F)-363-
2021.

1. The instant revision petition has been preferred against the
order dated 03.08.2021 passed by the Principal Judge, Family Court, Rewari
(hereinafter to be referred as ‘impugned order’) praying for modification
/setting-aside of the quantum of interim maintenance awarded by the said



order. Vide the impugned order; the petitioners (wife and minor son) have been awarded interim maintenance at the rate of Rs.10,000/- per month (i.e. Rs.8,000/- per month to petitioner No.1-wife and Rs.2,000/- per month to petitioner No.2 (minor son) from the date of the application. The petitioners (wife and minor son) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, asserting their status as the wife and minor son of the respondent (husband). They contended that they are unable to maintain themselves and hence interim maintenance ought to be awarded to them.

2. Learned counsel appearing for the petitioners has argued that the learned Family Court has overlooked the crucial fact regarding the financial status of the petitioners particularly their lack of any independent income. Learned counsel has further submitted that without appropriate and adequate interim maintenance amount, the petitioners are unable to maintain a minimal standard of living, which jeopardizes their health and well being. According to learned counsel, the meagre amount of Rs.10,000/- per month in form of interim maintenance is grossly inadequate and has been causing considerable hardships to the petitioners. According to the learned counsel, the Family Court has failed to appreciate that the respondent-husband has no dependents other than the petitioners. Furthermore, the respondent-husband, in his affidavit filed before the Family Court, has admitted that he is currently residing in his parental house and thus incurring no rental expenses. It has been further argued that the petitioner No.2 is a growing child and has various additional expenses related to his education and overall development and hence the quantum of interim maintenance awarded vide impugned order is inadequate. It has been further argued that the impugned



on record as well as settled principles of law. Learned counsel has submitted that the Family Court has erred by failing to appreciate the documents detailing the source of income of the respondent in correct perspective. Hence, it has been prayed that the impugned order is *prima facie* erroneous and has caused grave and substantial injustice to the petitioners and the same is liable to be modified so as to enhance it.

3. *Per contra*, learned counsel for the respondent-husband has argued that the learned Family Court has determined the quantum of maintenance without going into the facts and evidence brought on record. Learned counsel has further argued that the petitioner-wife has deserted the respondent without any reasonable cause. Furthermore, the Family Court has failed to appreciate the fact that the petitioner-wife is highly qualified as she holds a degree of M.Sc in Industrial Chemistry as also B.Ed. According to learned counsel, the petitioner-wife is running a coaching centre and earning a substantial income fully capable of maintaining herself and the minor child. Learned counsel has further argued that the Family Court ought to have considered that the respondent/husband, who is working as a salesman in a medical shop and earning a meagre salary, is the sole bread winner of his family, having responsibility to look after his ailing mother, who is suffering from various medical ailments and whom he is obliged to maintain, before fastening with the liability to pay the interim maintenance. Learned counsel has further argued that, in any case, the Family Court has adopted entirely incorrect approach while granting the quantum of interim maintenance and the same has been unjustly imposed upon the husband. Hence, it has been prayed that the quantum of interim maintenance awarded

vide impugned order be set-aside/modified, so as to reduce it.



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 ***Rajnesh 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 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.

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.

7. Relationship between the parties is not in dispute. The facts of the instant case reflect that vide the impugned order; the petitioners, who are the wife and minor son of the respondent-husband, have been granted interim maintenance at the rate of Rs.10,000/- per month (i.e. Rs.8,000/- per month to petitioner No.1-wife and Rs.2,000/- per month to petitioner No.2 (minor son) from the date of the application. In the considered opinion of this Court, the interim maintenance amount awarded must be reasonable and



realistic. The interim maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the husband, nor should it be so meager that it drives the wife to penury. The adequacy of the quantum has to be assessed to ensure that the wife/minor children are able to maintain themselves with reasonable comfort. The learned Family Court has determined that the respondent, who holds a B Pharmacy degree and operates a medical store, cannot be earning less than Rs.30,000 per month, in addition to the agricultural income of Rs.2500/- per month. The Family Court further noted that the plot bearing No. 1205 in Sector 4, Rewari, originally belonged to the father of the respondent and upon his demise, it was re-allotted solely to the mother of the respondent due to family transfer. Conversely, the Family Court emphasized that the petitioner-wife possesses significant academic qualifications, holding both an M.Sc. degree in Industrial Chemistry and a B.Ed degree, indicating her substantial potential for employment. Moreover, the contentions raised by the learned counsel for the parties in the present two petitions that the petitioner-wife, who is highly qualified has sufficient income to maintain herself and the minor son or the respondent-husband has sufficient source of income, are in fact, matter of trial and hence the same should not be delved into at this stage. The same can be ascertained only after adducing evidence by 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 subject to the adjustment which will depend on the final outcome of the maintenance petition filed by the petitioner/wife. In the instant case, the amount of interim maintenance, which has been directed to be paid by the respondent-husband (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.

8. 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.

9. 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.

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

(SUMEET GOEL)
JUDGE

September 25, 2024
Ajay

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