



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

CRR(F)-543-2019

Date of decision: 29.11.2024

RIMPI AND ANOTHER

...PETITIONERS

V/S

SANDEEP KUMAR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parminder Singh, Advocate for the petitioners.

Mr. R.S. Budhwar, Advocate for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the judgment dated 18.07.2019 passed by learned Additional Principal Judge, Family Court, Karnal, whereby, the respondent has been directed to pay an amount of Rs.1,000/- per month for maintenance to each petitioner, from the date of aforesaid judgment.

2. Brief facts of the case are that the marriage of petitioner No.1 and the respondent was solemnized on 15.06.2012 in accordance with Hindu rites and ceremonies. Out of this wedlock, one girl child (petitioner No.2 herein) was born. 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, Karnal vide judgment dated 18.07.2019 granted maintenance allowance of Rs.1,000/- per month each in favour of the petitioners from the date of passing of order. Aggrieved by the same, the petitioners have approached this Court by filing the present petition.

3. Learned counsel for the petitioners *inter alia* contends that learned



Family Court has fallen into grave error by making the respondent-husband liable to pay maintenance from the date of passing of the impugned judgment dated 18.07.2019. The approach of the learned Family Court is contrary to the ratio of law laid down by Hon'ble Supreme Court in '**Rajnesh v. Neha and another**' (2021) 2 SCC 324, wherein, it has been categorically held that maintenance in all cases will be awarded from the date of filing the application for maintenance and issue with regard to entitlement of the wife from the date of filing of the petition is well settled.

4. *Per contra*, learned counsel for respondent submits that respondent is paying Rs.6,000/- per month to the petitioners including all the collateral proceedings and the present one.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, the present petition is taken up for final disposal.

6. While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in **Rajnesh v. Neha and another** (*supra*), laid down the criteria for determining quantum of maintenance and issued the following 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 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."

7. In view of the discussion above, the present petition stands allowed and the impugned order dated 18.07.2019 passed by learned Additional Principal Judge, Family Court, Karnal, is modified to the extent that the petitioners are entitled to maintenance i.e. Rs.1,000/- per month each, from the date of filing of the petition under Section 125 Cr.P.C.

November 29, 2024
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |