



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

108

CRR(F)-1025 -2024 (O&M)

Date of decision:04.11.2024

Manpreet Kaur

....-Petitioner

V/s

Surjeet Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vishal Jassal, Advocate for the petitioner.
Ms. Pushpinder Kaur, Advocate for
Mr. Sandeep Singh Jattan, Advocate for the respondent.

SUMEET GOEL, J.

1. The instant revision petition has been preferred against the order dated 01.07.2024 passed by the Additional Principal Judge, (Family Court), Ambala (hereinafter to be referred as 'impugned order') praying for modification of the said order by enhancing the quantum of interim maintenance awarded by the said order. Vide the impugned order; the petitioner (herein) has been awarded interim maintenance at the rate of Rs.4,000/- per month to be paid by the respondent (herein) from the date of the filing of the application. The petitioner (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, Ambala stating that she is the wife of the respondent (herein) and is unable to maintain herself and hence the interim maintenance ought to be awarded to her.
2. Learned counsel appearing for the petitioner has iterated that the learned Family Court has erred in determining the quantum of interim maintenance awarded to the petitioner (herein) insofar as the income of the



respondent is concerned. It has been further reiterated that the learned Family Court has passed the impugned order without fully considering the pleadings, documents, and affidavits regarding income and expenses submitted by both the parties. It has been further submitted that the Family Court has failed to recognize that the petitioner is currently unemployed, residing with her parents and wholly dependent on their support while the respondent is enjoying a considerably high standard of living. According to learned counsel, the respondent owns a substantial 14 marla house in the upscale Shivalik Colony in Kharar and reportedly earns Rs.2.00 lacs per month. Despite having sufficient income, the respondent-husband has willfully neglected and refused to provide adequate maintenance to the petitioner. The amount of interim maintenance awarded by the Family Court is insufficient for any individual to meet basic living expenses, particularly given the circumstances of the petitioner and her dependence on her family. It has been further argued that the Family Court ought to have considered the disparity between the actual income of the respondent and the paltry sum awarded, which is grossly inadequate. Learned counsel has submitted that taking into consideration the ever-increasing cost of living, including essential commodities, education, medical expenses and other household needs, the enhancement of the maintenance amount is immediately warranted. Learned counsel has argued that the maintenance amount awarded is insufficient to sustain a decent and respectable living standard for the petitioner and hence the quantum of interim maintenance be modified to at least 40,000/- per month.



3. *Per contra*, learned counsel for the respondent has argued that the learned Family Court has erred in determining the quantum of interim maintenance awarded to the petitioner (herein) insofar as the income of the respondent is concerned. Learned counsel has submitted that the petitioner has sufficient means of income to maintain herself. Hence, dismissal of the instant petition has been prayed for.

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 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 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 is, indubitably, subject to final adjudication and it is a provisional step subject to final determination to be made on the conclusion of proceedings. In other words, the interim maintenance is only tentative & is subject to fixation of final maintenance.



7. Indubitably, the relationship between the parties is not in dispute. The facts of the instant case reflects that vide the impugned order; the petitioner (herein), who is the wife of the respondent, has been granted interim maintenance at the rate of Rs.4,000/- per month. The plea of the petitioner-wife that the Family Court ought to have granted higher amount of interim maintenance i.e. Rs.40,000/- per month considering the factual matrix of the *lis*. 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. While going through the impugned order, it transpires that both the parties (i.e. the petitioner-wife and the respondent-husband, have placed on record the affidavits with regard to the disclosure of their respective incomes, assets and liabilities in terms of the judgment of the Hon'ble Supreme Court titled as ***Rajnesh*** case (supra). As per the said affidavit, the petitioner-wife (herein) stated that she has no source of income to support herself. Meanwhile, the respondent-husband (herein), in his detailed affidavit and response to the interim maintenance application, claims that he is working as a helper/cleaner on a truck, earning Rs.9,000/- per month. Although both the parties have submitted affidavits asserting that the other has an independent income but neither of the them have presented any conclusive documents to substantiate these claims. Consequently, the respondent-husband has not been able to demonstrate that the petitioner-wife is self-sufficient nor the petitioner-wife had shown that the respondent earns Rs.2,00,000/- per month. Given these contradictions



and the inability to prove the exact income does not absolve the respondent-husband of his duty to provide maintenance and thus, an amount of Rs.4,000/- per month, was directed to be paid by the respondent (herein), vide the impugned order.

7.1 In the absence of any relevant evidence and documentation with regard to the actual sources of income possessed by the respondent, no conclusion can be made, at this stage, regarding the respondent's actual financial status. Moreover, the contentions raised by the learned counsel for the petitioner in the present petition are factual in nature and are matter of trial and no comment on the same can be made at this stage. The same can be ascertained only after adducing evidence by the parties. It is also apparent from the record that the order under challenge is only interim 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 (herein), vide the impugned order cannot be said to be on the lower side and is rather just and appropriate in the facts/circumstances of the present case.

7.2. It is pertinent to note herein that while going through the application for interim maintenance (Annexure P-1), two-fold prayers were made by the petitioner-wife (herein); firstly for grant of interim maintenance and the secondly for the grant of litigation expenses. A perusal of the impugned order reflects that though Rs.4,000/- per month was awarded as interim maintenance to the petitioner-wife (herein) but no amount



whatsoever has been awarded towards litigation expenses. Furthermore, no reasoning has also been given by the learned Family Court to decline the grant of litigation expenses.

Keeping in view the totality of the facts and circumstances of the case including the financial position of the rival parties, this Court deems it appropriate that a sum of Rs.10,000/- be awarded as litigation expenses. Ordered accordingly.

8. In view of the above, the instant petition is partly allowed as indicated hereinabove. However, the amount of interim maintenance granted by the Family Court does not call for any interference.

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

November 04, 2024
Ajay

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