



CRR(F)-1219-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-1219-2023

Date of decision: 20.08.2024

Jyotsana Yadav

....Petitioner

V/s

Vishal Yadav

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mukesh Rao, Advocate for the petitioner.

Ms. Rashi Shahrawat, Advocate for the respondent.

SUMEET GOEL, J.

1. The instant revision petition has been preferred against the order dated 11.04.2023 passed by the Family Court, Gurugram (hereinafter to be referred as 'impugned order') praying for modification of the said order for 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.30,000/- per month to be paid by the respondent (herein) from the date of the application. The petitioner (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, Gurugram 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 argued that the Family Court has gravely erred in partly allowing the application for interim maintenance without appreciating the fact that the petitioner has no source of income as she is unemployed. A paltry sum of Rs.30,000/- per month as interim maintenance has been granted to the petitioner that too without any

grant of litigation expenses & without appreciating the facts and



circumstances of the case and well settled principles of law. According to the learned counsel, the petitioner is living at the mercy of her parents without any support from the respondent and hence the respondent deserves to be fastened with liability to pay interim maintenance at the rate of Rs.50,000/- per month. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be modified and enhanced accordingly.

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. According to the learned counsel, the Family Court ought to have considered the financial capacity of the respondent, reasonable expenses for his own maintenance and dependent family members, whom he is obliged to maintain, before fastening with the liability to pay the interim maintenance at the rate of Rs.30,000/- per month. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be set-aside and the same be modified by taking into consideration the earning capacity as well financial status of the respondent.

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 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. 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.30,000/- per month. The plea of the petitioner-wife that the Family Court ought to have granted higher amount of interim maintenance i.e. Rs.50,000/- 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. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort. In the instant case, the amount of Rs.30,000/- per month, which has been directed to be paid by the petitioner (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.

8. In view of the above, the interim maintenance granted by the Family Court does not call for any interference. Accordingly, the instant petition is hereby dismissed.

9. Any observations made and/or submissions noted hereinabove shall not have any effect on 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

August 20, 2024
Ajay

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