

2024 PHHC 071229



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH
228 (2 cases)

1. CRR(F)-411-2020 (O&M)

Rajneesh Kumar	...Petitioner
Versus	
Suman	...Respondent

2. CRR(F)-123-2021 (O&M)

Suman	...Petitioner
Versus	
Rajneesh Kumar	...Respondent

Date of decision: 20.05.2024

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. L. K. Gollen, Advocate
for the petitioner in CRR(F)-411-2020;
for the respondent in CRR(F)-123-2021.

Mr. Bisham Kumar, Advocate
for the petitioner in CRR(F)-123-2021;
for the respondent in CRR(F)-411-2020.

MANISHA BATRA, J. (Oral)

1. 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 25.11.2020, passed by the Principal Judge, Family Court,

Rewari (*for short 'Family Court'*) in maintenance petition bearing No. MNT/637/2019, titled as ***Suman and anoather vs. Rajneesh***, whereby interim maintenance to the tune of Rs. 11,000/- per month was directed to be paid by the respondent-husband to the petitioner-wife.

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 the present case are that the aforementioned petition under Section 125 of Cr.P.C. has been filed by petitioner No. 1, who is wife of respondent Rajneesh for herself and on behalf of her son i.e. petitioner No. 2, on the averments that she got married with the respondent on 11.05.2015. Petitioner No. 2 was born out of the wedlock. She alleged that she was being tortured by the respondent and his family members on account of demand of dowry since the very inception of her marital life and ultimately, she was made to leave her nuptial home. While claiming that she was unable to maintain herself and her minor child as she was not having any source of income, whereas the respondent, who had retired from Army, was fetching pensionary income of Rs. 42,000/-, besides deriving income from five acres of agricultural land owned by him, she prayed for directing the respondent to pay maintenance @ Rs. 20,000/- per month. Along with the main petition, the petitioners had moved an application for grant of interim maintenance during the pendecny of the main petition.

5. A perusal of the impugned order reveals that the respondent had been given notice of the petition and while admitting the factum of marriage with the petitioner No. 1, asserted that the minor petitioner No. 2 was living

with him and not with petitioner No. 1. He also alleged that it was petitioner No. 1, who had left the matrimonial home without any reasonable cause or excuse in May, 2019 on her own. It was denied by him that any demand of dowry was raised from her or she was tortured on account of the same and it was rather alleged that she was having illicit relationship with some third person. Therefore, it was urged that she was not entitled to any maintenance.

6. On hearing the contentions as raised by both the sides, the Family Court, vide impugned order dated 25.11.2020, directed the respondent to pay the interim maintenance to the tune of Rs. 11,000/- per month from the date of application to petitioner No. 1. Feeling dissatisfied with the quantum of interim maintenance, directed to paid by the respondent to her, petitioner No. 1 has filed revision petition bearing CRR(F) No. 123 of 2021, whereas feeling aggrieved by the order of grant of interim maintenance to petitioner No. 1, the respondent has filed revision petition bearing CRR(F) No. 411 of 2020.

7. It is argued by learned counsel for the petitioner that the amount of interim maintenance of Rs. 11,000/- per month, which the Family Court had directed to be paid to the petitioner, is meager and not sufficient to meet the day to day expenses of food, clothing, medicines etc. and other miscellaneous expenses. The respondent is admittedly fetching pension after his retirement and is also earning handsome amount of money from the agricultural proceeds. While passing the impugned order, the Family Court ignored the fact that the petitioner was entitled to live a life of dignity and status, which was at par with the status of her husband but this fact was ignored by the Family Court. With these broad submissions, it is urged that the impugned order be modified and instead of Rs. 11,000/- per month, the

respondent be directed to pay enhanced amount of maintenance.

8. *Per contra*, it has been argued by learned counsel for the respondent that the impugned order is not sustainable in the eyes of law as while passing the same, the Family Court ignored the fact that no particulars of any land as owned by him had been given by the petitioner. He did not own any agricultural land either as joined property or as individual property. He was in Army services and had since been retired. The minor son of the parties is living with him. He himself is 40% permanently disabled as he is suffering from MDR Tuberculosis Cervical Lymphadenopathy and even a certificate has been issued to him in this regard. He is bearing expenses of their son, who is also suffering from hyper reactive airway disease. His old mother is also dependent upon him and he requires money to spend upon them as well. His present monthly pensionary income is only Rs. 42,000/- and the amount so directed to be paid to the petitioner-wife is, therefore, excessive. It is also argued by learned counsel for the respondent that even otherwise, the petitioner is not entitled to any maintenance as she has failed to prove that she has been neglected and refused to be maintained by the respondent. Rather, it is her, who had herself left the society of the respondent without any reasonable cause. With these broad submissions, it is urged that the impugned order granting interim maintenance to the petitioner-wife is liable to be set aside.

9. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

10. The relationship between the parties is not disputed. It is also not in dispute that they are living separately since May, 2019 and further that the minor son of the parties, who was originally made a party to the petition

filed under Section 125 of Cr.P.C., is living with the respondent and not with the petitioner. It is also not in dispute that the respondent was an army personnel, who has since been retired. As per the petitioner, his monthly pension at the time of passing the impugned order was Rs. 42,000/- and further that apart from having income of Rs. 42,000/- by way of pension, the respondent owns five acres of agricultural land and is earning money by agricultural proceeds also, whereas the case of the respondent is that he was getting a sum of only Rs. 21,438/- per month as pension and apart from the said amount, he had no other source of income.

11. The parties have levelled allegations/counter allegations against each other. Though the sanctity and legal effect of the allegations as levelled by the parties can be determined only on the basis of thorough assessment of the evidence, which is yet to be led by the parties but at this prefatory juncture, the factor which is to be noticed is that it is not in dispute that the petitioner is not having any source of income and hence is unable to maintain herself.

12. The well settled proposition of law is that the husband is under an obligation to maintain his wife irrespective of the fact whether he has property or no property as it is considered as an important duty and solemn obligation of the husband to maintain his wife and he cannot say that he is unable to maintain her due to financial constraints, so far he is capable of earning. The provision of Section 125 Cr.P.C. is a measure of social legislation and is to be construed liberally for the welfare of the benefit of the wife and children. Hon'ble Supreme Court in an authoritative pronouncement cited as ***Rajnish v. Neha & Ors. : 2021 (2) SCC 324*** has laid down various guidelines for determining the quantum of maintenance

by observing that the objective of granting interim / permanent alimony is to ensure that the dependant spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. The factors which would weigh with the Court *inter alia* are the status of the parties; reasonable needs of the wife and dependant children; whether the applicant is educated and professionally qualified; the question that the wife has any independent source of income, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance and dependant family members whom he is obliged to maintain under the law as well as the liabilities, if any, and these factors are required to be taken into consideration to arrive at the proper quantum of maintenance to be paid. That apart, the Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. It is also well settled proposition of law 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 are able to maintain themselves with reasonable comfort. Reliance in this regard can be placed upon ***Manisha Jain vs. Akanksha Jain : (2017) 15 SCC 801.***

13. On applying the abovementioned proposition of law to the peculiar facts and circumstances of the present case, it emerges that the petitioner in his affidavit as furnished before the Family Court had mentioned his income by way of pension to be Rs. 21,438/-. In Part (II) of

the affidavit, which had been filed by the petitioner, she had submitted that the monthly income of the respondent by way of pension was Rs. 29,000/- and also claimed that he was having income from agricultural resources also, though the amount of such income had not been mentioned. Annexure R-1 (as filed in CRR(F)-411-2020), is the copy of the statement of joint bank account of the parties, showing that in the year 2020 i.e. at the time of passing the impugned order, the monthly pension of the respondent was Rs. 32,608/-. These entries are not in dispute and are sufficient proof of the fact that as on the date of passing of the impugned order, the respondent was getting monthly pension @ Rs. 32,608/- only and not Rs. 42,000/- as claimed by the petitioner. More so, the claim of the petitioner qua pension amount of the respondent being Rs. 42,000/- is falsified by her admission as made by herself in Part (II) of her affidavit as discussed above. Therefore, it is observed that in the year 2020, the respondent was receiving pension @ Rs. 32,608/- per month only. As such the observations by the Family Court that he was earning a sum of Rs. 42,000/- per month cannot be said to be correctly made.

14. Now, the question that arises is as to whether the amount of Rs. 11,000/-, which was directed to be paid by the respondent to the petitioner by way of interim maintenance deserves to be enhanced or is liable to be reduced as per respective claims of the parties ? It has also come on record that since July, 2023, the respondent is receiving pension @ Rs. 42,000/- per month and of course it will keep on increasing every year. Though, the future income to be received either by way of pension or otherwise of the respondent cannot be considered to be a criteria for enhancement in the maintenance amount to be granted to the petitioner but

at the same time, on overall appraisal of the material placed on record, I am inclined to hold that the amount of Rs. 11,000/- so directed to be paid to the petitioner can also be not stated to be exorbitant or excessive to such extent that the same was oppressive for the respondent. Rather, the same is just, reasonable and proper, which neither deserves to be enhanced nor is liable to reduced keeping in view the fact that the respondent is also maintaining his minor son as well as old aged mother.

15. In view of the discussion as made above, I am inclined to hold that the impugned order does not warrant any interference as the amount of interim maintenance is neither exorbitant nor is so meager that it would lead the petitioner to live a life of penury. More so, the main petition is still pending and the parties will be at liberty to produce their respective evidence to prove that they are entitled to any change in the amount of maintenance payable or to be paid. Accordingly, both the petitions are dismissed.

16. Let a photocopy of this order be placed upon the file of the connected case.

20.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>