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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR(F)-1074-2024 (O&M)

Date of decision: 18.11.2024

Mahesh Kumar

...Petitioner

V/s

Sonia Rani

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sunny K. Singla, Advocate for
Mr. Shalinder Nagpal, Advocate for the petitioner.
Mr. J.S. Modgill, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 21.05.2024 passed by the Principal Judge, Family Court, Sangrur Camp at Malerkotla (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondent-wife has been awarded interim maintenance at the rate of Rs.18,000/- per month to be paid by the petitioner-husband (herein) from the date of the institution of the application. The respondent (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that she is the wife of the petitioner (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 respondent-wife has filed a false and frivolous application before the Family Court, seeking interim maintenance, which the Family Court has granted without properly considering the facts and circumstances of the case.

It has been further iterated that the respondent-wife has left the matrimonial

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home on unreasonable and trivial grounds and hence the application under Section 125 of the Cr.P.C., 1973 is not maintainable *per se*. It has been further emphasized that the Family Court has excessively granted the interim maintenance as the petitioner is already supporting both the children, who are school going and are living with him. According to learned counsel, the respondent has misrepresented the financial details of the petitioner which has resulted in an exaggerated grant of interim maintenance amount and placing an undue burden on the petitioner-husband. Learned counsel asserts that the findings of the learned Family Court are based on misrepresentation of facts and the same is based on conjectures and surmises. It is respectfully submitted that the petitioner-husband alongwith minor children are residing in the godown. However, the learned Family Court has disregarded the financial responsibilities of the petitioner-husband and granted the interim maintenance to the respondent-wife. Thus, it has been prayed that the impugned order is patently illegal and suffers from material infirmities and hence liable to be set-aside.

3. *Per contra*, learned counsel for the respondent has argued that the learned Family Court has rightly allowed the application seeking interim maintenance as the respondent-wife does not have any source of income to maintain herself. Furthermore, the Family Court has determined the quantum of maintenance based on the calculation of the income of the petitioner as also taken due consideration of the relevant facts and circumstances of the case. Thus, it has been prayed that the present petition be dismissed.

4. I have heard learned counsel for the rival parties and have perused the available 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

1. *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.*

2. *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
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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 reflect that vide the impugned order; the respondent, who is the wife of the petitioner, has been granted interim maintenance at the rate of Rs.18,000/- per month from the date of institution of the application. It is pertinent to mention herein that before the Family Court, the application qua the applicant Nos.2 and 3 (i.e. the minor children) born out of the wedlock of the parties, were residing with the husband and therefore, the claim qua them is dismissed as not pressed. While going through the impugned order, it transpires that both the parties have submitted

their affidavits in terms of the judgment passed by Hon’ble Supreme Court



in the case of *Rajnesh* case (supra). The respondent-wife has consistently maintained throughout the proceedings that she has neither any source of income nor possesses any moveable or immoveable property. Conversely, the petitioner-husband denied the income claimed by the respondent-wife (herein) and asserted in his affidavit of disclosure of assets and liabilities that he earns Rs.45,000/- per month from a business involving laces and buttons. It was further contended before the Family Court that he bears the full responsibility of his two children and covers all their expenses. However, during the course of arguments, learned counsel for the respondent-wife (herein) has submitted copies of the medical record of the respondent-wife, indicating that she is suffering from hernia. Considering the facts and circumstances, the status of the parties and the current costs of living index, the Family Court had directed the petitioner-husband (herein) to pay Rs.18,000/- per month as interim maintenance effective from the date of filing of the application.

8. Given the facts and circumstances of the case, the monthly interim maintenance amount of Rs.18,000/-, which has been directed to be paid by the petitioner (herein) to the respondent-wife, vide the impugned order appears to be on the higher side. It is worthwhile to note herein that the objective of granting interim maintenance is to ensure that the dependent wife is not reduced to destitution or vagrancy during the pendency of her maintenance application, and not as a punishment to the husband. The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes. It is pertinent to mention herein that the although the primary responsibility of the husband is to maintain the wife especially

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in cases where the wife has no source of income but at the same time it needs to be noticed herein that the minor children are living in the care and custody of the petitioner-husband and all their expenses are being borne by him. The financial obligations of the petitioner towards the minor children their upbringing alongside the interim maintenance which was ordered by the Family Court for the respondent-wife, create a considerable burden on the petitioner-husband (herein). While adjudicating the quantum of maintenance payable to the wife, it is imperative for the Court to consider the fact that the children are residing in care and custody of the father. Failure to take into consideration this crucial aspect; would result in undue and inequitable burden upon the father. The father, as the parent having custody of the children, is already under a legal obligation to meet the needs of the children, which include but are not limited to their education, health care, sustenance and other ancillary expenses. These obligations constitute a substantial financial responsibility that must be factored into while ratiocinating upon the quantum of maintenance. Therefore, a balanced approach must be struck between ensuring the reasonable needs of the wife and recognizing the financial strain on the petitioner-husband (herein), who bears the additional responsibility of taking care and looking after to the needs of his minor children.

9. Accordingly, the present petition is partly allowed and the impugned order dated 21.05.2024 passed by the Family Court is modified and the same is reduced from Rs.18,000/- to Rs.8,000 per month. Henceforth, the petitioner (herein)-husband shall pay to respondent-wife a sum of Rs.8,000/- per month from the date of filing of the petition.



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

(SUMEET GOEL)
JUDGE

November 18, 2024
Ajay

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