



CRR(F)-1249-2023

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

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CRR(F)-1249-2023 (O&M)

Date of decision:11.11.2024

Simranjit Kaur and another

....Petitioners

V/s

Navtej Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. J.S. Thind, Advocate for the petitioners.

Mr. Gobind Singh Randhawa, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 02.03.2023 passed by the learned Additional Principal Judge, Family Court, Amritsar (hereinafter to be referred as 'impugned order') praying for modification of the said order and consequently enhancing the quantum of interim maintenance awarded by the said order. Vide the impugned order; the petitioners (herein) have been awarded interim maintenance at the rate of Rs.6,000/- per month (i.e. Rs.4,000/- per month to petitioner No.1-wife and Rs.2,000/- per month to petitioner No.2 (minor son)) from the date of the filing of the application alongwith litigation expenses to the tune of Rs.3300/-. The petitioners (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and minor son, respectively, of the respondent (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.



2. Learned counsel appearing for the petitioners has iterated that the learned Family Court has erred in determining the quantum of interim maintenance awarded to the petitioners (herein) insofar as the income of the respondent is concerned. According to the learned counsel, the respondent-husband has concealed his true financial standing. It has been further argued that the petitioner No.1-wife, has no independent source of income and bears the sole responsibility of caring for her minor son. However, on account of paltry sum awarded by the Family Court, the petitioner No.1-wife is struggling to meet the education expenses of petitioner No.2. It has been further submitted that the Family Court has overlooked the fact that the petitioner-wife also bears additional expenses necessary for their livelihood, alongside the financial responsibility of caring for her minor son which far exceeds the amount of maintenance that has been granted by the Family Court. It is further submitted that the respondent-husband owns a big house in Delhi and is doing the business of transport and has a substantial source of income i.e. Rs.2.00 lacs per month. However, the Family Court has made a serious error in assessing the monthly income of the respondent as only Rs.10,000/- thereby granting inadequate interim maintenance of Rs.6,000/- which is grossly insufficient especially given the continuously rising costs of essential goods required for basic survival. Learned counsel has argued that the maintenance amount awarded is insufficient to sustain a decent and respectable living standard for the petitioners and hence the quantum of interim maintenance be modified and enhanced suitably.

3. *Per contra*, learned counsel for the respondent has argued that the Family Court, while granting the interim maintenance to the petitioners, has completely ignored the materials placed on record before it. It has been



further argued that the petitioner No.1 has sufficient source of income to maintain herself and the minor child. 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 ***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 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.

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(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.

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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;

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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. Indubitably, relationship between the parties is not in dispute. 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 their respective incomes, assets and liabilities in



terms of the judgment of the Hon'ble Supreme Court in *Rajnesh* case (supra). Before the Family Court, it is evident that the respondent-husband had disclosed that he works as a helper in a shop with a reported monthly income of Rs.10,000/- and named his employer as SP Flower. Although, the petitioner-wife alleged that the monthly income of the respondent from various sources is around Rs.2.00 lacs but no evidence has been provided to substantiate this claim. In the absence of any documented proof to support the assertion of the wife, the Family Court relied upon the income disclosed by the respondent. Conversely, the petitioner-wife has claimed to have no source of income and is entirely dependent on financial support to meet her daily expenses. Though, the respondent-husband (herein) contended that the petitioner No.1-wife has sufficient source of income but no evidence has been presented by the respondent to substantiate this claim or to prove that the petitioner No.1 is employed anywhere. Accordingly, the Family Court held that there is no evidence on record to suggest that the petitioner-wife is financially capable of supporting herself and hence the respondent-husband is obligated to provide financial support to her. Accordingly, an amount of Rs.6,000/- per month, was directed to be paid by the respondent (herein) by the Family Court vide the impugned order.

8. It is trite law that the financial capacity of the husband and the needs of the wife must be balanced while determining the quantum of interim maintenance in order to ensure that the wife is not subjected to financial hardship. In the considered opinion of this Court, the interim maintenance awarded by the Family Court is justified and does not warrant any interference or modification. 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 petitioners in the present petition are factual in nature and are matter of trial and no ratiocination 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.

9. 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.
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 11, 2024
Ajay

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