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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 12.12.2024

Rachna Rani and another

...Petitioners

V/s

Bhupinder Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. PKS Phoolka, Advocate for the petitioners.

None for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 31.07.2023 passed by the learned Principal Judge, Family Court, Bathinda (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.4,000/- per month (i.e. Rs.2500/- per month to petitioner No.1-wife and Rs.1500/- per month to petitioner No.2 (minor son)) from the date of the filing of the application to be paid by respondent-husband alongwith litigation expenses of Rs.3,000/-. 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 of the respondent (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

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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 petitioner No.1 along with petitioner No.2 (minor son), is currently living in destitute conditions. It has been further iterated that the petitioner-wife has no house to reside in and no independent source of income to support herself or her child. According to learned counsel, the petitioner-wife is entirely dependent on her brother for basic necessities, including medical treatment. However, the brother of the petitioner is not financially capable of sustaining the day-to-day needs. Learned counsel has further submitted that the petitioners are legally entitled to maintenance and financial support from the respondent, who earns a salary of approximately Rs.60,000/- per month from his accounting job. In addition to his salary, the respondent and his family own immovable property and run a business, generating additional income. Learned counsel asserts that the respondent has falsely claimed to be working as a helper at a grocery shop with a monthly income of only Rs.8500/-. It has been further argued that this claim of the respondent is inconsistent with the respondent's actual financial status as his standard of living is much higher. According to learned counsel, a deliberate attempt has been made by the respondent to avoid his maintenance obligations towards the petitioners. However, on account of paltry sum awarded by the Family Court, the petitioner No.1-wife is struggling to meet the educational expenses of petitioner No.2-minor son. It has been further submitted that the Family Court has overlooked the fact that the petitioners also bear additional



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expenses necessary for their livelihood, alongside the financial responsibility of caring of minor son. It is further submitted that the learned Family Court has ignored to consider the fact that the wife and the minor son are entitled to maintain the same standard of living as the husband. Therefore, while deciding on the application for the interim maintenance, the Family Court ought to consider both the status and earning capacity of the husband when determining the appropriate amount of interim maintenance to be granted. 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 urgently warranted. Learned counsel has further submitted that the recurring costs have escalated significantly due to inflation and increasing living costs, making it impossible for the petitioners to manage on an awarded amount of interim maintenance. 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. Office note indicates that service has been effected upon the respondent. However, none has caused appearance on his behalf.

4. I have heard learned counsel for the petitioners 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



- (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. Indubitably, the relationship between the parties is not in dispute. Upon perusal of the Affidavit of Disclosure of Assets and Liabilities of the respondent-husband filed before the Family Court, it is evident that the respondent-husband (herein) has reiterated the submission made in his reply, asserting that he is employed at a grocery shop in Kotkapura and earns a meager salary of Rs.8500/- per month. However, no conclusive proof with regard to the exact income of the respondent-husband had been led before the Family Court. Conversely, the petitioner-wife has consistently maintained throughout the proceedings that she has no source of income to maintain herself as well as the minor child and is financially dependent on her brother. Furthermore, the Family Court observed that it is reasonable to

estimate that the petitioner-husband (herein), being able bodied person, has

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an income of at least Rs.12,000/- to Rs.15,000/- per month. Upon this consideration, the Family Court found it reasonable to award the amount, as indicated hereinabove, as interim maintenance to the respondents.

8. Indubitably, the relationship between the parties is undisputed and it is a fundamental legal obligation of the respondent-husband (herein) to provide financial support to his wife and the minor child, if they are unable to sustain themselves. In the instant case, the respondent-wife is currently unemployed and bears the sole responsibility of caring for her minor child on account of the matrimonial discord. It is a well established law that a husband cannot escape his duty to provide maintenance to his wife and child, especially when they are financially dependent on him. Matrimonial disputes do not absolve a parent of their responsibility towards their children or spouse and of their duty to uphold the financial stability of the family. Furthermore, the petitioner No.2 is a minor school going child which adds to the financial responsibilities borne by the petitioner-wife. It is pertinent to highlight herein that despite the respondent-husband having stable source of income, no adequate provisions have been made to address the educational and other essential needs of the minor child. In the considered opinion of this Court, to ensure a fair and equitable distribution of financial responsibilities for the upbringing and education of the minor child, the interim maintenance amount awarded by the Family Court should be increased. The financial capacity of the respondent-husband, as evidenced by his disclosed admitted income, demonstrates that he is in a position to contribute more significantly to the welfare of the child as also the destitute wife. Furthermore, it is essential that the maintenance amount



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be adjusted to reflect the rising costs of education, healthcare and other basic necessities required for the proper development of the wife and minor child. The petitioner-wife is compelled to shoulder the entire burden of ensuring the upbringing and education of the minor son, which has further strained her financial situation.

9. In this view of the matter as also considering the fact that the minor son of the parties is a school going child and the recurring costs that have escalated significantly due to inflation; the present petition is allowed and the impugned order dated 31.07.2023 passed by the Family Court is modified to the extent that the respondent (herein)-husband shall pay to petitioner No.-1-wife (herein) a sum of Rs.3500/- per month and Rs.2500/- per month to petitioner No.2-minor son (herein) from the date of filing of the petition.

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

December 12, 2024
Ajay

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