

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

Date of decision: 09.09.2024

....Petitioner

Versus

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shalender Mohan, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The present revision petition has been filed for setting aside the impugned judgment dated 19.07.2024 passed by the learned Additional Principal Judge, Family Court, Hisar.

Learned counsel for the petitioner *inter alia* contends that initially an amount of Rs.10,000/- was awarded to the respondents as maintenance and the same was passed with the consent of both the parties. However, thereafter, the respondents filed an application under Section 127 Cr.P.C. and the amount of maintenance was enhanced to Rs.30,000/- per month to both the respondents and the order was passed with the consent of the petitioner and respondent No.1. He further submits that the respondents have also instituted proceedings under the provisions of Hindu Adoptions and Maintenance Act, 1956, and the learned Court below has awarded Rs.27,000/- per month as maintenance. The petitioner has challenged the same by filing RFA No.1893-2023 which was heard along with FAO No.6672-2023 and vide order dated 03.07.2024, the Division Bench of this Court has stayed the impugned judgment and decree dated 17.10.2023 subject to deposit of 50% of the amount



CRR(F)-1155-2024

-2-

by the petitioner. He further relies upon Annexure P-6 to indicate that respondent No.1 has taken three bank loans for the purpose of running a business. He further submits that the law is well settled on account of issue of adjustment/set off of the successive claims in collateral proceedings instituted by his wife. Rs.27,000/- awarded by the learned Family Court on 17.10.2023 under the Provisions of Hindu Adoptions and Maintenance Act, 1956, and the Court below has not considered the same while passing the impugned judgment dated 19.07.2024.

While dealing with the issue of maintenance *in extenso*, a two Judge bench of the Hon'ble Supreme Court in **Rajnesh v. Neha and another (2021) 2 SCC 324**, laid down the criteria for determining quantum of maintenance and issued the following directions:

VI Final Directions

130. In view of the foregoing discussion as contained in Part B -I to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:

(a) Issue of overlapping jurisdiction

131. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:

(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;

(ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;

(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding

(b) Payment of Interim Maintenance



CRR(F)-1155-2024

-3-

132. *The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.*

(c) Criteria for determining the quantum of maintenance

133. *For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B III of the judgment.*

134. *The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.*

(d) Date from which maintenance is to be awarded

135. *We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.*

(e) Enforcement/Execution of orders of maintenance

136. *For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI."*

In view of the above backdrop, learned counsel for the petitioner wishes to withdraw the present petition with liberty to move an appropriate application for seeking set off/adjustment of the successive claims filed by respondent No.1 in collateral proceedings in accordance with law.

Dismissed as withdrawn with the liberty aforesaid.

(HARPREET SINGH BRAR)
JUDGE

09.09.2024

Neha

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