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

CRR(F)-1161-2024

Date of decision: 11.09.2024

Gaurav Kumar

....Petitioner

Versus

Shweta Gangwani and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Vikram Singh, Advocate
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

The present revision petition has been preferred against the impugned judgment dated 18.07.2024 passed by the learned Principal Judge, Family Court, Gurugram, under Section 125 of the Cr.P.C. vide which provisional maintenance of Rs.50,000/- per month was awarded to the respondents.

Brief facts of the case are that the marriage of the petitioner and respondent No.1 was solemnized on 02.05.2008. Out of this wedlock, one female child was born. It is further alleged that there is matrimonial dispute between the parties and the relations between the petitioner and respondent No.1 became strained. However, matrimonial dispute ensued between the couple and the respondents filed a petition under Section 125 Cr.P.C. seeking maintenance. The petitioner filed a reply and contested the claim made by the respondent. The learned Family Court vide order dated 18.07.2024 granted provisional maintenance allowance of Rs.50,000/- per month to the respondents. Aggrieved by the same, the petitioner has approached this Court by filing the present revision petition.



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Learned counsel for the petitioner *inter alia* contends that the petitioner has been directed to pay provisional maintenance and there is no legislative mandate for awarding such provisional maintenance. The order has been passed in a mechanical manner without even adverting to the affidavits declaring the assets, liabilities and income filed by the petitioner and the respondents which is in complete violation of the rules as laid down by the Hon'ble Supreme Court in '**Rajnish v. Neha and another**' (2021) 2 SCC 324.

Having heard learned counsel for the petitioner and after perusing the record with his able assistance, the present petition is being decided in *limine* in view of directions issued by the Hon'ble Supreme Court in **Rajnish's case (supra)**, in order to save litigation cost of the respondents and judicial time of the Court.

While dealing with the issue, a two Judge bench of the Hon'ble Supreme Court in **Rajnish's case (supra)**, laid down the criteria and issued the following directions:

“VI Final Directions

130. *In view of the foregoing discussion as contained in Part B -1 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

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." (emphasis added)

In view of the above, the impugned order dated 18.07.2024 is set aside and the matter is remanded back to the learned Principal Judge, Family Court, Gurugram and the Court below is directed to pass a fresh/appropriate order granting interim maintenance, if the respondents are found entitled to within a period of three months from the date of receipt of certified copy of this order, after considering the affidavits showing income, assets and liabilities of

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both the parties expeditiously, strictly in accordance with law as laid down in *Rajnish's case (supra)*.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

11.09.2024*Neha*

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