



CRR(F)-1361-2023

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

273

CRM-39629-2023 in/&
CRR(F)-1361-2023 (O&M)

Date of decision: 16.10.2024

Diksha and another

...Petitioners

V/s

Balwinder Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Dinesh Mahajan, Advocate for the petitioners.

Mr. Sachin Gupta, Advocate for

Mr. Sachin Ohri, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

CRM-39629-2023

In view of the submission made by learned counsel for the applicants as also the reasons mentioned in the application, the same is allowed. The condonation of delay of 110 days in filing the instant revision petition is condoned.

CRR(F)-1361-2023

1. The instant revision petition has been preferred against the order dated 24.02.2023 passed by the learned Principal Judge, Family Court, Gurdaspur (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.8,000/- per month (i.e. Rs.5,000/- per month to petitioner No.1-wife and Rs.3,000/- per month to petitioner No.2 (minor son)) from the date of the



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. It has been further reiterated that during the pendency of the petition, on 10.07.2023, the minor son i.e. petitioner No.2 got admission in a school. 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. According to learned counsel, the petitioner No.1-wife has managed to make partial payments by borrowing funds from relatives and parents, but is now facing uncertainty about the ongoing monthly expenses. It has been further submitted that the Family Court has overlooked the fact that the petitioners also bear additional expenses necessary for their livelihood, alongside the financial responsibility of caring of minor son, who frequently suffers from various health issues. The expenses for the medical treatment of petitioner No.2 (minor son), alongwith other necessities, far exceed the amount of maintenance that has been granted by the Family Court. It is further submitted that the respondent-husband is working in para military forces and



from other moveable and immoveable properties. 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. *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 children, as she is running a tuition centre and earning handsomely. 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 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, relationship between the parties and the birth of minor son 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 earns a monthly salary of Rs.48,673/-, as reflected in the salary slip for January, 2022, while serving as a Constable in the Sashastra Seema Bal. Furthermore, subsequent to the passing of the impugned order, petitioner No.2, the minor son, has been admitted to a school which further increases the financial obligations of the petitioner-wife. It is pertinent to highlight herein that despite the respondent-husband being stable and having sufficient 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 current maintenance amount should be



by his disclosed income, demonstrates that he is in a position to contribute more significantly to the welfare of the child. Furthermore, it is essential that the maintenance amount be adjusted to reflect the rising costs of education, healthcare and other basic necessities required for the proper development of the minor child.

8. In this view of the matter as also considering the fact that the minor son of the respondent has recently been admitted to school and the recurring costs that have escalated significantly due to inflation, the present petition is allowed and the impugned order dated 24.02.2023 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.7500/- per month and Rs.5000/- per month to petitioner No.2-minor son (herein) from the date of filing of the petition.

9. 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.

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

(SUMEET GOEL)
JUDGE

October 16, 2024
Ajay

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