



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR(F)-1375-2023

Date of decision: 30.09.2024

Abhishek Ojha

...Petitioner

V/s

Sonali

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Mehak Ghangas, Advocate with
Mr. Ajay Ghangas, Advocate for the petitioner.
Mr. Jagjeet Beniwal, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 18.05.2023 passed by the Principal Judge, Family Court, Bhiwani (hereinafter to be referred as 'impugned order') praying for setting-aside of the said order. Vide the impugned order; the respondent (herein) has been awarded interim maintenance at the rate of Rs.30,000/- per month from the date of the filing of the application. The respondent (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that she is the legally wedded wife of the petitioner (herein) and is unable to maintain herself and hence the interim maintenance ought to be awarded to her.

2. Learned counsel appearing for the petitioner has contended that the Family Court, while granting interim maintenance to the wife, failed to consider that the petitioner is also responsible for the care and maintenance of his elderly parents, who are frequently unwell due to their age, as well as



his unmarried sister. Learned counsel has further argued that the respondent-wife is well-educated and capable of supporting herself as she was earlier working as an Assistant Officer QAD in Bhaskar Group Private Limited at Mandideep, District Bhopal from 21.06.2021 to 31.10.2022 as also at Lion Fabrics Private Limited at Gandhi Nagar, Bhopal (Madhya Pradesh) and hence she is not entitled to interim maintenance from the petitioner-husband. According to the learned counsel, the Family Court granted the interim maintenance of Rs.30,000/- to the respondent-wife, citing the husband's gross salary as Rs.83,126/- per month based on the August, 2022 salary slip. However, the Family Court overlooked that, after deductions, the husband receives Rs.75,637/- per month. Furthermore, the Family Court failed to take into consideration that the petitioner has taken a home loan with a monthly EMI of Rs.23,000/- and also pays an annual medical insurance premium of Rs.11,000/-. It has been further argued that the petitioner has limited means of earning and the amount of interim maintenance awarded is disproportionate to his income. Learned counsel has further argued that the quantum of interim maintenance is based upon surmises and conjectures. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be set-aside or modified taking into consideration aforesaid facts and circumstances of the case.

3. *Per contra*, learned counsel for the respondent has argued that the learned Family Court has determined the quantum of maintenance based on the calculation of the income of the petitioner as also taken due consideration of the relevant facts and circumstances of the case. It has been further argued that the respondent does not own or possess any moveable or



immovable property as also has no independent source of income to maintain herself. Thus, it has been prayed that the present petition be dismissed.

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 ***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 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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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;

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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. Relationship between the parties is not in dispute. The facts of the instant case reflect that vide the impugned order; the respondent, who is the wife of the petitioner, has been granted interim maintenance at the rate of



Rs.30,000/- per month from the date of the filing of the application. The learned Family Court has determined the gross monthly income of the petitioner-husband to be Rs.83,126/- based on his salary slip for the month of August, 2022. In view thereof, the learned Family Court, awarded a sum of Rs. 30,000/- per month as interim maintenance to the respondent-wife, recognizing her status as legally wedded wife. However, the quantum of interim maintenance awarded to the respondent-wife appears to be disproportionate, as the Family Court failed to adequately consider the financial obligations of the petitioner-husband towards his unmarried sister and aged parents, who are completely dependent on him. Furthermore, the net monthly income of the petitioner-husband is approximately Rs.75,000/- after the statutory deductions, which are beyond his control. The statutory deductions, which are mandated by law and beyond the control of the husband, can be taken into account while assessing the quantum of maintenance. This oversight by the Family Court renders the awarded interim maintenance amount unreasonable and excessive and placing undue financial burden on the petitioner-husband, which may affect his ability to fulfill his other financial obligations/duties. It is imperative to notice herein that the interim maintenance be determined in a fair and balanced manner, taking into account the entirety of the financial obligations and dependents of a husband, in order to avoid prejudice to either party.

8. Accordingly, the present petition is allowed and the impugned order dated 18.05.2023 passed by the Family Court is modified to the extent that the petitioner (herein)-husband shall pay to respondent-wife a sum of Rs.25,000/- per month 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

September 30, 2024
Ajay

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