



CRR(F)-1015-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CRR(F)-1751-2023 (O&M)

Date of decision:23.09.2024

Pradeep

...Petitioner

V/s

Manju and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Abhay Gupta, Advocate for the petitioner.  
Mr. L.K. Narang, Advocate for the respondents.

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SUMEET GOEL, J.(Oral)

1. Present revision petition has been preferred against the order dated 23.09.2022 passed by the Additional Principal Judge, Family Court, Meham (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondents (herein) have been awarded interim maintenance at the rate of Rs.13,000/- per month (i.e. Rs.9,000/- per month to respondent No.1-wife and Rs.4,000/- per month to respondent No.2-minor son) to be paid by the petitioner (herein) from the date of application alongwith litigation expenses of Rs.11,000/-.
2. Learned counsel for the petitioner has argued that the learned Family Court, while determining the quantum of interim maintenance, has not taken into consideration the inability of the petitioner to pay the excessive amount, given his current financial condition. Learned counsel has further argued that the Family Court has overlooked the modest income



brother, who is unemployed and his elderly parents who are in need of medical care and support, while granting the interim maintenance to the respondents. According to the learned counsel, the salary of the petitioner, after necessary deductions, leaves him with a minimal amount to cover all his responsibilities. It has been further argued, that the respondent has refused to live with the petitioner without any justifiable cause which further demonstrates that the respondent-wife has no justifiable grounds for seeking maintenance. According to the learned counsel, the allegations of dowry harassment raised by the respondent-wife have not been substantiated by any credible evidence, and the same have been brought up as an afterthought to strengthen the claim of the respondent for maintenance. Learned counsel has further argued that the Family Court ought to have considered this aspect before fastening with the liability to pay the interim maintenance to the respondents. Thus, it has been prayed that the impugned order is patently illegal, perverse and suffers from material illegalities and infirmities and the same is liable to be set-aside.

4. *Per contra*, learned counsel for the respondents has argued that the learned Family Court has rightly allowed the application seeking interim maintenance as the respondent-wife has neither any source of income to maintain herself and her minor son nor any movable and immovable property in her name. Furthermore, the Family Court has determined the quantum of maintenance based on the calculation of the income of the petitioner; consideration of the expenditure incurred for the education of respondent No.2 (minor son) as also taken due consideration of the relevant



facts and circumstances of the case. Thus, it has been prayed that the present petition be dismissed.

5. I have heard learned counsel for the petitioner and have perused the available record.

6. 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 is, indubitably, subject to final adjudication and it is a provisional step subject to final determination to be made on the conclusion of proceedings. In other words, the interim maintenance is only tentative & is subject to fixation of final maintenance.

7.                      It is undisputed that respondent No.1 is the legally wedded wife of the petitioner and respondent No.2 is the minor son of the petitioner, who is living in the care and custody of respondent No.1. The facts of the instant case reflect that vide the impugned order; the respondents, who are the wife and minor son of the petitioner, has been granted interim maintenance at the rate of Rs.13,000/- per month (i.e. Rs.9,000/- per month to respondent No.1- wife and Rs.4,000/- per month to respondent No.2-minor son) from the date of application. While going through the impugned order, it transpired that the respondent No.1 has consistently maintained throughout the proceedings that she is financially dependent, as evidenced by the lack of any substantial transactions in her bank statement. This fact has further been corroborated by her affidavit of assets and liabilities filed before the Family Court.

Furthermore, the petitioner-husband has not been able to place on record any

concrete proof to substantiate his claim that the respondent No.1-wife was



employed as a teacher or receiving a monthly salary of Rs.30,000/-. It is imperative to note herein that the monthly salary of the petitioner, who is working as Helper Kalsi in Northern Railway, is Rs.38,901/-, as per his affidavit of declaration of assets and liabilities filed before the Family Court. The contention of learned counsel for the petitioner that his monthly salary is only Rs.23,587/-as per his salary certificate for the month of September 2022 (Annexure P-5)cannot be accepted at this stage, particularly in the absence of corroborating documents that would establish the consistency of his salary over time. It is well settled that the salary certificate or statement for a single month do not provide a reliable basis for determining overall income. Hence, at this juncture, the contentions raised by learned counsel for the petitioner in the present petition with regard to factual aspect, are matter of trial and no comment on the same can be made at this stage. The same can be ascertained only after adducing evidence by the parties. It is also apparent from the record that the order under challenge is only interim in nature and not a final decision of the maintenance petition. The amount of maintenance awarded is always subject to the adjustment which will depend on the final outcome of the maintenance petition filed by the respondent/wife.

7.1. Considering the facts and circumstances of the case, the amount of Rs.13,000/- per month, which has been directed to be paid by the petitioner (herein) to the respondents, vide the impugned order cannot be said to be on the higher side and is rather just and appropriate in the facts/circumstances of the case.



8. In view of above, the interim maintenance granted by the Family Court does not call for any interference. Accordingly, the instant petition is hereby dismissed.
9. It is worth noticeable herein that pursuant to order dated 25.05.2023 passed by this Court, the petitioner-Pardeep was directed to hand-over a demand draft of Rs.22,000/- as litigation expenses to the respondent-wife. Today learned counsel appearing for the respondent submits that the respondent-wife has received the aforesaid litigation amount.
10. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the Family Court shall proceed further, in accordance with law, without being influenced with them.
11. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)  
JUDGE

September 23, 2024  
*Ajay*

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