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

CRM-39933-2024 in/and
CRR(F)-1271-2024
Date of decision: 03.10.2024

Buta Singh Gill

...Petitioner

Versus

Karnail Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lakshay Jindal, Advocate for
Mr. Dixit Garg, Advocate
for the applicant/petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The present revision petition has been preferred against the impugned order dated 19.04.2024 passed by the learned Additional Principal Judge, Family Court, Camp at Khanna, under Section 125 of the Cr.P.C. vide which *ad interim* maintenance of Rs.5,000/- per month was awarded to the respondent.

Brief facts of the case are that the marriage of the petitioner and the respondent was solemnized on 12.12.1990 in accordance with Sikh rites and ceremonies. It is further alleged that a matrimonial dispute ensued between the parties and the relations between the petitioner and the respondent became strained. However, the respondent 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 19.04.2024 granted *ad interim* maintenance allowance of Rs.5,000/- per month to the respondent. Aggrieved



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by the same, the petitioner has approached this Court by filing the present revision petition.

Learned counsel for the petitioner *inter alia* contends that the learned Additional Principal Judge, Family Court, Khanna, has fallen into grave error by awarding the provisional maintenance and there is no legislative mandate for awarding such provisional maintenance. The order has been passed in a mechanical manner and in violation of the guidelines as laid down by the Hon'ble Supreme Court in 'Rajnish v. Neha and another' (2021) 2 SCC 324.

Admittedly, the respondent is receiving a pension of Rs.49,674/- per month, as such, she has sufficient means to maintain herself and the petitioner cannot be held liable to pay any maintenance and she has other source of income also including properties and Fixed Deposits in her name. He further submits that the learned Court below has not adverted to the declaration given by the parties through their affidavits declaring their assets, income and liabilities.

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 respondent 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 -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

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*



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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 19.04.2024 is set aside and the matter is remanded back to the learned Additional Principal Judge, Family Court, Khanna and the Court below is directed to pass a fresh/appropriate order granting interim maintenance, if the respondent is 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 both the parties expeditiously, strictly in accordance with law as laid down in ***Rajnesh'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.

Pending CRM(s), if any, are also disposed of accordingly.

**(HARPREET SINGH BRAR)
JUDGE**

03.10.2024

Neha

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