



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

112

CRR(F)-921-2019 (O&M)

Date of decision:16.09.2024

Nirpal Singh

...Petitioner

V/s

Gagandeep Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Jai Bhagwan, Advocate for the petitioner.

Mr. Raman Mahajan, Advocate for the respondents.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 03.09.2019 passed by the Additional Principal Judge, Family Court, Ludhiana (hereinafter to be referred as the 'concerned Family Court') praying for quashing/setting-aside of the said order. Vide the impugned order; the respondents (herein) have been awarded interim maintenance at the rate of Rs.25,000/- per month (i.e. Rs.15000/- per month to respondent No.1-wife and Rs.10,000/- per month to respondent No.2 (minor son)) alongwith the litigation expenses of Rs.5500/- to be paid by the petitioner (herein) from the date of application.

2. Learned counsel for the petitioner has argued that the Family Court has wrongly assessed the income of the petitioner without appreciating the facts put forth by him and hence granted the interim maintenance to the respondents, which is on the higher side. According to the learned counsel, the Family Court has failed to consider the vital aspect of the matter that the respondent-wife has refuses to live with the petitioner-husband without any



reasonable cause which amounts to voluntary desertion by her and hence attracts the provisions of Section 125(4) of the Cr.P.C. and accordingly, the Family Court ought to have dismissed the application on this score alone. It has been further argued that the Family Court, while assessing the quantum of interim maintenance, has completely overlooked the fact that the respondent No.1-wife is having rental income from a house which has not been disclosed by her before the Family Court. Learned counsel has further argued that the Family Court ought to have considered the financial capacity of the petitioner and the reasonable expenses for his own maintenance and his old aged parents, who are suffering from various ailments, before fastening with the liability to pay the interim maintenance. Thus, it has been prayed that the instant petition be accepted and the impugned order be quashed/set-aside.

3. *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.

4. I have heard learned counsel for the petitioner and have perused the available 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 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. Relationship between the parties is not in dispute. The facts of the instant case reflect that vide the impugned order; the respondents (herein), who is the wife and the minor son of the petitioner, have been granted interim maintenance at the rate of Rs.25,000/- per month (i.e. Rs.15000/- per month to respondent No.1-wife and Rs.10,000/- per month to respondent No.2 (minor son). The petitioner-husband’s claim of insufficient financial resources, in itself, does not exempt him from his legal and moral



responsibility persists regardless of his income, as it is for the well-being and maintenance of his dependents. The interim maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the husband, nor should it be so meagre that it drives the wife to penury. While going through the impugned order, it transpires that the petitioner-husband is working as SDO in PWD (B&R) and was earning approximately Rs.70,000/- per month. Moreover, the petitioner has not placed on record any document to show that the respondent No.1-wife has any specific source of income in her individual capacity. 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 an 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, income of the petitioner; status of the parties; their standard of living and requirements of the wife-respondent No.1 and her minor son-respondent No.2, the amount of Rs.25,000/- per month, which has been directed to be paid by the petitioner (herein), 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. 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.

9. As per the order of the preceding date i.e. 28.08.2024, the petitioner, in order to show his *bona fide*, had deposited a sum of Rs.8.00 lacs with the Registrar General of this Court, who would further deposit the said amount into a FDR in a Nationalized bank fetching maximum interest. As per the report received from the Registry, the aforesaid amount, as directed for, has been deposited by the petitioner. It is, thus, directed that the FDR in the name of Registrar General alongwith the interest accrued thereupon be released/remitted to the petitioner-husband forthwith.

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

(SUMEET GOEL)
JUDGE

September 16, 2024
Ajay

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