



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

270

CRR(F)-1539-2023

Date of decision: 23.09.2024

Neelesh Gupta

...Petitioner

V/s

Mansi Modi and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gaurav Jain, Advocate for the petitioner.

Mr. Sumit Singh, Advocate for

Mr. Vikram Rana, Advocate for the respondents.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 19.08.2023 passed by the Principal Judge, Family Court, Faridabad (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the application for interim maintenance was partly allowed and the respondent No.2-Master Gauransh (herein) has been awarded interim maintenance at the rate of Rs.30,000/- per month (i.e. Rs.15,000/- each per month to be paid by the petitioner-father and respondent No.1-mother) to be shared equally by the petitioner and respondent No.1 in order to bear his day to day expenses from the date of filing of the application till he attains the age of majority.

2. Learned counsel for the petitioner has argued that the impugned order is perverse and has been passed without application of judicial mind as also in a mechanical manner. It has been further argued that the Family Court has erred in not considering the actual age and corresponding needs of respondent No.2 (minor child), which clearly did not include school related



expenses at the time of filing of the application for maintenance. According to the learned counsel, the Family Court has failed to consider the current needs of the respondent No.2-minor child, which do not include the school fees. It has been further argued that the petitioner has been continuously providing the essential needs and well being of respondent No.2 (minor) including medical care, and other necessary expenses. According to the learned counsel, the Family Court has wrongly imposed an additional financial burden, including the school expenses when the child was not of school going age, appears to be highly unjust and contrary. It has been further argued that no cogent evidence has been placed on record to justify such an inflated maintenance amount. Accordingly, the impugned order is liable to be set-aside or modified in the interest of justice.

4. *Per contra*, learned counsel for the respondents has argued that the respondent No.1-wife has been deprived of necessary financial support from the respondent-husband, who has a legal and moral obligation to maintain and sustain her. According to learned counsel, the petitioner being financially sound and earning a substantial income per month as an engineer has failed to fulfil his duties towards the respondents. It has, thus, been further prayed that the respondents be granted maintenance at a higher rate taking into account the financial disparity between the parties and their urgent need for subsistence. Learned counsel has further submitted that the interim maintenance is a measure intended to protect women and children from financial hardship.

5. I have heard learned counsel for the parties 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

- 1. *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.*
- 2. *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.*

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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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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 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 respondent No.2- Master Gauransh has been granted interim maintenance at the rate of Rs.30,000/- per month i.e. Rs.15,000/- each per month to be paid by the petitioner-father and respondent No.1-mother in order to bear his day to day expenses from the date of filing of the application till he attains the age of majority. As per the assessment made by learned Family Court, the income of the petitioner (husband) has been assessed to be Rs.45,863/- per month whereas the income of the respondent No.1 (wife) has been assessed to be Rs.68,378/- per month. The learned Family Court has not granted any



is earning sufficiently. The said finding is not subject matter of challenge in the instant petition. The respondent No.2 (Master Gauransh) was born on 06.05.2018. The learned Family Court has assessed Rs.30,000/- to be the amount required for maintenance of respondent No.2 and has accordingly directed the petitioner (husband) and respondent No.1 (wife) to share the expenses to the tune of Rs.15,000/- per month each. In the considered opinion of this Court, it does not meet the rationale that out of the total income of the husband and wife, which comes out to Rs.1,14,241/-, expenses of Rs.30,000/- per month would be required for maintenance of the child borne out of the wedlock. The paramount objective of awarding maintenance under Section 125 of Cr.P.C. is to safeguard the claimant from plummeting into penury and destitution due to financial constraints. In the instant case, the amount of Rs.30,000/- per month for the maintenance of a 5/6 years old child appears excessive, considering the combined income of both the parents. While determining the quantum of maintenance, the Court must meticulously consider various facets of the child's development and upbringing, including education, healthcare and overall well-being. However, the awarded amount should not impose an undue financial burden on the parents who are directed to pay such maintenance. In accordance with established legal principles, the maintenance awarded should be commensurate with the financial capacity of the parents and the child's legitimate needs. The Court must strike a balance between ensuring the child's welfare and avoiding an onerous financial strain on the parents. Furthermore, the Court's discretion in determining maintenance should be guided by the principles of justice, equity and good conscience. The amount



prevailing economic conditions and the standard of living of the parties involved.

7.1. Accordingly, this Court finds that the findings of the Family Court that Rs.30,000/- per month is required as maintenance of respondent No.2 (Master Gauransh) is certainly on the higher side. In the considered opinion of this Court, the appropriate amount for maintenance and day-today care of Master Gauransh (respondent No.2-herein) would be Rs.15,000/- per month, which is to be shared by petitioner and respondent No.1 equally. Accordingly, the impugned order dated 19.08.2023 is modified to the extent that the petitioner (husband) and respondent No.1 (wife) would be required to pay Rs.7500/- each per month as maintenance allowance to respondent No.2 (Master Gauransh).

8. 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. 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