



CRR(F)-1272-2022

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

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CRR(F)-1272-2022

Date of decision: 13.11.2024

Rachna and another

...Petitioners

V/s

Sunny Kapoor

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. N.K. Malhotra, Advocate for the petitioners.

Mr. Tejas Bansal, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 02.11.2022 passed by the learned Additional Principal Judge, Family Court, Rohtak (hereinafter to be referred as 'impugned order') praying for modification of the said order and consequently enhancing the quantum of interim maintenance awarded by the said order. Vide the impugned order; the petitioners (herein) have been awarded interim maintenance at the rate of Rs.8,000/- per month to petitioner No.1-wife from the date of petition till 15.06.2020 and Rs.4,000/- per month to petitioner No.2-minor daughter from the date of petition till final decision alongwith litigation expenses to the tune of Rs.11,000/-. The petitioners (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and minor daughter, respectively, of the respondent (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. Learned counsel appearing for the petitioners has iterated that the learned Family Court has erred in determining the quantum of interim



maintenance awarded to the petitioners (herein) insofar as the income of the respondent is concerned. According to the learned counsel, the financial capacity of the respondent-husband, who is a Patwari, is sound. It has been further iterated that the respondent has neither submitted his income tax returns for three years nor his bank statements and salary slip along with his affidavit of Disclosure of Assets and Liabilities. It has been further iterated that petitioner No.2-minor daughter is a school going girl and her expenses, including school fees, tuition fees and other related costs, are quite substantial. However, on account of paltry sum awarded by the Family Court, the petitioner No.1-wife is struggling to meet the educational expenses of petitioner No.2-minor daughter. It has been further submitted that the Family Court has overlooked the fact that the petitioners also bear additional expenses necessary for their livelihood, alongside the financial responsibility of caring of minor daughter. According to the learned counsel, even if the wife is earning, the husband remains legally and morally obligated to support the wife. It is further submitted that the learned Family Court has ignored to consider the fact that the wife and the minor daughter are entitled to maintain the same standard of living as the husband. Therefore, while deciding on the application for maintenance, the Family Court ought to consider both the status and earning capacity of the husband when determining the appropriate amount of maintenance to be granted. Learned counsel has submitted that taking into consideration the ever-increasing cost of living, including essential commodities, education, medical expenses and other household needs, the enhancement of the maintenance amount is urgently warranted. Learned counsel has further submitted that the recurring costs have escalated significantly due to



inflation and increasing living costs, making it impossible for the petitioners to manage on the awarded amount of interim maintenance. Learned counsel has argued that the maintenance amount awarded is insufficient to sustain a decent and respectable living standard for the petitioners and hence the quantum of interim maintenance be modified and enhanced suitably.

3. *Per contra*, learned counsel for the respondent has iterated that the Family Court, while granting the interim maintenance to the petitioners, has completely ignored the materials placed on record before it. It has been further argued that the petitioner No.1 has sufficient source of income to maintain herself and the minor daughter as she is working as an agent in Post Office and earning handsomely. Moreover, it has been further submitted that the petitioner No.1 is a qualified lady and earning Rs.20,000/- per month by imparting tuitions. Hence, dismissal of the instant petition has been prayed for.

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 ***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, 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. Indubitably, the relationship between the parties is not in dispute. While going through the impugned order, it transpires that both the parties have submitted their respective affidavits disclosing their respective income as well as movable and immovable assets. The Family Court has reviewed the affidavits of the parties thoroughly. The petitioner-wife has fairly conceded before the Family Court that she is working as an agent in Post office and hence earning Rs.8800/- per month. Conversely, upon perusal of the Affidavit of Disclosure of Assets and Liabilities of the respondent-husband, the Family Court observed that he is drawing a net salary of Rs.37,878/- per month, as reflected in his salary slip. In view thereof, the learned Family Court has awarded an amount of Rs.8,000/- per month to petitioner No.1-wife from the date of petition till 15.06.2020 and Rs.4,000/- per month to petitioner No.2-minor daughter from the date of petition till the final decision.

7.1 The contention raised on behalf of the respondent-herein that the respondent is not liable to maintain the petitioner-wife owing to the fact that she is possessing sufficient means to maintain herself, is not well-founded in law. Section 125 Cr.P.C. is a tool for social justice enacted to ensure that women and children are protected from a life of potential

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93. *The Bombay High Court in Sanjay Damodar Kale v. Kalyani Sanjay Kale*
2020 SCC Online Bom 694 while relying upon the judgment in *Sunita Kachwaha*



(supra), held that neither the mere potential to earn, nor the actual earning of the wife, howsoever meagre, is sufficient to deny the claim of maintenance.

94. An able-bodied husband must be presumed to be capable of earning sufficient money to maintain his wife and children, and cannot contend that he is not in a position to earn sufficiently to maintain his family, as held by the Delhi High Court in **Chander Prakash Bodhraj v. Shila Rani Chander Prakash**, AIR 1968 **Delhi 174**. The onus is on the husband to establish with necessary material that there are sufficient grounds to show that he is unable to maintain the family, and discharge his legal obligations for reasons beyond his control. If the husband does not disclose the exact amount of his income, an adverse inference may be drawn by the Court.

95. This Court in **Shamima Farooqui v. Shahid Khan (2015) 5 SCC 705** cited the judgment in *Chander Prakash (supra)* with approval, and held that the obligation of the husband to provide maintenance stands on a higher pedestal than the wife.

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Thus, even the mother is working; it does not mean that the husband will be absolved from taking responsibility of his wife and the minor child. The husband is legally bound to maintain his wife and the minor child according to his status and lifestyle.

8. Keeping in view the principles governing the assessment of quantum of maintenance (whether interim or final) under Section 125 of Cr.P.C., 1973, it is pertinent to highlight herein that the petitioner No.2, the minor daughter, is currently attending school, which adds to the financial responsibilities borne by the petitioner No.1-wife. In the considered opinion of this Court, to ensure a fair and equitable distribution of financial responsibilities for the upbringing and education of the minor child, the interim maintenance amount awarded by the Family Court should be increased. The financial capacity of the respondent-husband, as evidenced by his disclosed admitted income, demonstrates that he is in a position to contribute more significantly to the welfare of the child. Furthermore, it is



essential that the maintenance amount be adjusted to reflect the rising costs of education, healthcare and other basic necessities required for the proper development of the wife and minor child. The petitioner-wife is compelled to shoulder the entire burden of ensuring the upbringing and education of the minor daughter, which has further strained her financial situation. While it is acknowledged that the petitioner-wife is employed working as an agent in Post office w.e.f. 16.06.2020, this fact does not absolve the respondent-husband from his responsibility to provide reasonable maintenance to her. It is pertinent to mention herein that the employment does not necessarily equate to financial independence, especially when the income of the wife may not be sufficient to maintain the standard of living she enjoyed at her matrimonial home. The enhancement of the maintenance amount in light of the rising cost of living and the continued financial needs of the wife, which extend beyond mere day-to-day expenses, in considered opinion of this Court call for interference. Furthermore, the disparity in earnings between the parties and the ability of the husband to pay, are the relevant factors that cannot be overlooked. The objective of the enhanced maintenance is not only to ensure the wife's livelihood but also to preserve her dignity and enable her to maintain a reasonable quality of life. The employment of the wife is not a bar to her entitlement to adequate support, especially where it does not sufficiently cover all her needs, including medical, social, education of the minor child and future security considerations. Therefore, the increase in maintenance is necessary and equitable to ensure fairness and justice in the circumstances of this case.



9. In this view of the matter as also considering the fact that the minor daughter of the parties is undergoing school education and the recurring costs that have escalated significantly due to inflation; the present petition is allowed and the impugned order dated 02.11.2022 passed by the Family Court is modified to the extent that the respondent (herein)-husband shall pay to petitioner No.1-wife a sum of Rs.2000/- per month from 16.06.2020 till the final decision of the maintenance petition apart from Rs.8,000/- per month from the date of filing of the petition till 15.06.2020 & Rs.6,000/- per month to petitioner No.2 (herein) from the date of filing of the petition till the final decision of the maintenance petition.
10. 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.
11. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

November 13, 2024
Ajay

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