



CRR(F)-1356-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR(F)-1356-2024 (O&M)

Date of decision: 28.10.2024

Baldev Singh

...Petitioner

V/s

Karamjit Kaur @ Soni and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rahul Rampal, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 12.09.2024 passed by the Additional Principal Judge, Family Court, Ludhiana (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondent Nos.1 and 3 (herein) i.e. wife and the minor son have been awarded interim maintenance at the rate of Rs.3,000/- per month each to be paid by the petitioner-husband (herein) from the date of the institution of the application. The respondents (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and the minor children of the petitioner (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them. However, the claim with regard to respondent No.2-minor daughter (herein) had not been pressed before the Family Court as admittedly she is the daughter of the respondent No.1 from her earlier marriage.



2. Learned counsel appearing for the petitioner has iterated that, while determining the amount of interim maintenance, the Family Court overlooked the cross-examination of respondent No.1-wife, wherein she had admitted that she was earning approximately Rs.14,000/- per month from tailoring work. Out of this income, she reportedly saves Rs.4000-5000/- each month and spends around Rs.10,000/- on daily necessities. Learned counsel has further contended that this evidence of income of respondent No.1 is crucial, as it reflects her capacity to contribute towards her own expenses, which should have been a relevant/important factor while assessing the quantum of interim maintenance. It has been further emphasized that the misrepresentation of the financial details by the respondent No.1-wife has resulted in an exaggerated grant of interim maintenance amount and placing an undue burden on the petitioner-husband. Learned counsel asserts that the findings of the learned Family Court are based on misrepresentation of facts and the same is based on conjectures and surmises. It is respectfully submitted that the respondent-wife's deliberate attempt to conceal her true financial status constitutes a gross abuse of the process of the Court. Thus, it has been prayed that the impugned order is patently illegal and suffers from material infirmities and hence liable to be set-aside.

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

4. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as ***Rajnesh vs. Neha & Anr.: 2021(2) SCC***



“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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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”

5. 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.

6. Indubitably, the relationship between the parties is not in dispute. It is also undisputed that respondent No.1-wife and her minor son i.e. respondent No.3, are living separately from the petitioner-husband. The facts of the instant case reflect that vide the impugned order; the respondent Nos.1 and 3, who are the wife and minor son of the petitioner, have been granted interim maintenance at the rate of Rs.3,000/- per month each from the date of institution of the application. The respondent No.1-wife (herein) had claimed before the Family Court that the petitioner-husband (herein) operates a general store and earns approximately Rs.1.5 lacs per month from all his sources. However, in his Affidavit of disclosure of Income and Assets, the petitioner-husband (herein) declared his income as only



monthly income of only Rs.9,000/-, the petitioner-husband (herein) has shown an amount of Rs.9,000/- per month i.e. equal to his earning, as his expenditure in an effort to evade his responsibility from maintaining the respondent Nos.1 and 3.

6.1. The contention of learned counsel for the petitioner that the respondent No.1-wife is alleged to be earning Rs.14,000/- per month by doing the work of tailoring as stated by her during the course of her cross-examination in the criminal complaint amongst the parties, is mis-conceived as the same is yet to be established and the petitioner-husband has not submitted any concrete evidence in support of this claim. Furthermore, it is yet to be proved on record whether the income of respondent No.1-wife stated during her cross-examination is accurate, as her counsel had contended before the Family Court that the same was due to a clerical error. Furthermore, this contention raised on behalf of the petitioner-herein that the petitioner is not liable to maintain the respondent Nos.1 and 3 owing to respondent-wife possessing sufficient means to maintain and lookafter her as well as the respondent-minor child, 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 vagrancy and destitution. If the husband/father has sufficient means, he is obligated to maintain his wife and children, and cannot shirk away from his moral and familial responsibilities. In households wherein the women are working and are earning sufficiently to maintain themselves, it does not automatically mean that the husband/father is absolved of his responsibility to provide sustenance for his children. A father has an equal duty to provide for his children and there

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husband/father is legally bound to maintain his wife as well as the minor child according to his status and lifestyle.

6.2. Based on the petitioner-husband's own admitted income; keeping in view the existing price index; reasonable necessities coupled with the other facts and circumstances of the case, the Family Court held that the respondent Nos.1 and 3 are likely to encounter substantial financial hardship in case order granting interim maintenance is not passed at this stage. Furthermore, the petitioner-husband (herein) had failed to provide any convincing evidence to show that the respondent-wife (herein) has any steady source of income or any adequate means of financial support for her and her minor child's survival. In the considered opinion of this Court, the impugned order is merely an interim measure to alleviate the immediate financial pressure being faced by the respondent-wife and the minor child. 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 ratiocination on the same can be effectively made at this stage. The same can only be ascertained after the parties adduce evidence. It is also apparent from the record that the order under challenge is only interim in nature and not a final decision on 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. Considering the facts and circumstances of the case, the amount of Rs.6,000/- per month, which has been directed to be paid by the petitioner (herein) to the respondent Nos. 1 and 3, 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. 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.

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

(SUMEET GOEL)
JUDGE

October 28, 2024
Ajay

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