



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

108

CRR(F)-1375-2024

Date of decision: 28.10.2024

Alisha Singh

...Petitioner

V/s

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amit Arora, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 02.08.2024 passed by the Principal Judge, Family Court, Amritsar (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondent-wife (herein) has been awarded interim maintenance at the rate of Rs.18,000/- per month to be paid by the petitioner-husband (herein) from the date of the application alongwith litigation expenses of Rs.3,000/-. The respondent (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that she is the wife of the petitioner (herein) and is unable to maintain herself and hence the interim maintenance ought to be awarded to her.

2. Learned counsel appearing for the petitioner has iterated that the interim maintenance awarded to the respondent-wife is excessively high, as the petitioner, has taken a loan of Rs.13,85,000 for a period of 60 months, with an monthly installment of Rs.31,160/-. Furthermore, the petitioner-husband is responsible for maintaining his daughter (born from the earlier

marriage), which includes her monthly school fee of approximately



Rs.5,000/-, alongwith bus fees and other miscellaneous expenses. Given the limited income of the petitioner-husband, it is nearly impossible for him to meet these financial obligations. Moreover, the impugned order passed by the learned Family Court is legally untenable, as the Family Court has granted the maintenance from the date of the application without providing any cogent reasoning. According to learned counsel, it is settled law and as per Section 125(2) of Cr.P.C., 1973, the general rule is that the maintenance or interim maintenance should commence from the date of the order, unless specifically directed to be effective from the date of application, for which the Family Court is required to state clear reasons for doing so. In the instant case, no such reasons have been assigned. It has been further argued, that the respondent has refused to live with the petitioner without any justifiable cause which further demonstrates that the respondent-wife has no justifiable grounds for seeking maintenance. Learned counsel has further argued that the Family Court ought to have considered the aforesaid aspects before fastening with the liability to pay the interim maintenance to the respondent. 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 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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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. The facts of the instant case reflect that vide the impugned order; the respondent, who is the wife of the petitioner, has been granted interim maintenance at the rate of Rs.18,000/- per month from the date of the filing of the application till disposal of the petition. While going through the impugned order, it transpires that regarding the quantum of interim maintenance, both the parties have submitted affidavits detailing their respective movable and immovable assets. The Family Court has reviewed the affidavits of the parties thoroughly. The respondent-wife (herein) asserted before the Family Court that the petitioner-husband (herein) has substantial means, as he is employed with the Punjab Armed Police, earning a monthly salary of Rs.70,000/- and bears no other financial obligations besides from the maintenance of the respondent-wife. Moreover, the respondent-wife (herein) has maintained throughout the proceedings before the Family Court that she has no independent source of income to maintain herself. Furthermore, the Family Court observed that the exact income of both the parties would be determined after the submission and examination



(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 survival.

6.1. Considering the arguments raised by the petitioner that while assessing the amount of maintenance, the Family Court has not adopted a pragmatic approach and has granted the maintenance from the date of the application without giving any cogent reasoning. In this regard, it is pertinent to refer herein to the dicta of the judgment of the Hon'ble Supreme Court in the case of **Rajnesh vs Neha & another, 2020(4), RCR (Criminal) 879**, relevant whereof reads as under:

“116. The judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded.

117. Even though a judicial discretion is conferred upon the Court to grant maintenance either from the date of application or from the date of the order in Section 125(2) Cr.P.C., it would be appropriate to grant maintenance from the date of application in all cases, including Section 125 Cr.P.C., 1973 In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

*118. In the case of **Shail Kumari Devi and Ors. v. Krishnan Bhagwan Pathak (2008) 9 SCC 632**, this Court held that the entitlement of maintenance should not be left to the uncertain date of disposal of the case. The enormous delay in disposal of proceedings justifies the award of maintenance from the date of application. In the case of **Bhuwan Mohan Singh v. Meena (2015) 6 SCC 353**, this Court held that repetitive adjournments sought by the husband in that case resulted in delay of 9 years in the adjudication of the case. The delay in adjudication was not only against human rights, but also against the basic embodiment of dignity of an individual. The delay in the conduct of the proceedings would require grant of maintenance to date back to the date of application.*

119. The rationale of granting maintenance from the date of application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband.



Financial constraints of a dependant spouse hampers their capacity to be effectively represented before the Court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the concerned Court.

*120. In the case of **Badshah v. Urmila Badshah Godse (2014) 1 SCC 188**, the Supreme Court was considering the interpretation of Section 125 Cr.P.C., 1973 The Court held :*

"13.3. ...purposive interpretation needs to be given to the provisions of Section 125 CrPC, 1973. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalized sections of the society. The purpose is to achieve "social justice" which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of the social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society."

121. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all Courts, by directing that maintenance is awarded from the date on which the application was made before the concerned Court. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant."

The above enunciated legal principle in **Rajnesh** (supra), leaves no room for any doubts as to the date from which the maintenance amount ought to have been awarded.

7. Now, addressing the question of quantum of maintenance, it is essential to ensure that the amount awarded be commensurate with the petitioner's financial standing and capacity. The determination of quantum must be done after taking into account not only the petitioner's disclosed



he may be entitled to by virtue of his employment. The guiding principle in such matter is to ensure that the petitioner and the minor children are able to maintain a standard of living consistent with the respondent's means. The learned Family Court, while adjudicating upon the issue of maintenance in the year 2022, determined the quantum of maintenance for the respondent-wife based upon the fact that the petitioner-husband is serving in Punjab Armed Police and drawing salary of Rs.70,000/- per month. In light of these circumstances, the Family Court came to the conclusion that taking into consideration the income of the petitioner-husband (herein) and social status of both the parties, granted interim maintenance of Rs.18,000/- per month to the respondent-wife from the date of filing the application. Furthermore, there is no evidence on record to indicate that the respondent-wife (herein) has any source of income, making her dependent on the petitioner-husband (herein) for maintenance and livelihood. In the considered opinion of this Court, the impugned order is merely an interim measure and to alleviate the immediate financial pressure being faced by the respondent-wife. 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.



8. Considering the facts and circumstances of the case, the amount of Rs.18,000/- per month, which has been directed to be paid by the petitioner (herein) to the respondent, 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.
9. 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.
10. 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.
11. 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