



CRR(F)-79-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 26.09.2024

1. CRR(F)-79-2023

Navjot Singh
V/s
Navjot Kaur and others
...Petitioner
...Respondents

2. CRR(F)-924-2023

Navjot Kaur and others
V/s
Navjot Singh
...Petitioners
...Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Srishti Shukla, Advocate &
Mr. Kulwinder Singh, Advocate for the petitioner
in CRR(F)-79-2023 and
for the respondent in CRR(F)-924-2023.
Mr. I.S. Kooner, Advocate for respondents
in CRR(F)-79-2023 and for the petitioners in CRR(F)-924-2023

SUMEET GOEL, J. (Oral)

Vide this common order, the afore-said two revision petitions arising out of the common impugned order are being disposed off. For the sake of brevity, recitals/facts are being taken from CRR(F)-79-2023.

1. The instant revision petition has been preferred against the order dated 10.11.2022 passed by the Principal Judge, Family Court, Nabha (hereinafter to be referred as ‘impugned order’) praying for setting-aside/modification of the quantum of interim maintenance awarded by the

said order. Vide the impugned order; the respondents (wife and minor sons)



have been awarded interim maintenance at the rate of Rs.11,000/- per month (i.e. Rs.3,000/- per month to respondent No.1-wife and Rs.4,000/- per month each to respondent Nos.2 and 3 (minor sons). The respondents (wife and minor son) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that they are the wife and minor sons, respectively, of the petitioner (husband) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. Learned counsel appearing for the petitioner-husband has argued that the Family Court has failed to appreciate that the respondent-wife has never made any genuine efforts to reconcile the differences despite several attempts made by the petitioner to resolve the matter amicably. Learned counsel has further argued that the respondent-wife has deserted the petitioner without any valid or reasonable cause which disentitles her from claiming any form of maintenance from the petitioner. It has been further argued that the Family Court has erred in ignoring the fact that the respondent-wife is financially independent as she is working in a private school and earning a respectable income and thus does not require any financial support from the petitioner. According to learned counsel, the Family Court ought to have taken into consideration this aspect while deciding the matter of maintenance. It has been further argued that it is well settled principle of law that when a spouse voluntarily withdraws from the company of other without sufficient cause and has the capacity to maintain herself, she is not entitled to claim maintenance under such circumstances.

Furthermore, the learned Family Court has failed to consider the fact that the petitioner is genuinely interested in reconciling the marital relationship and



has already initiated proceedings under Section 9 of the HMA which demonstrates his bona fide intention to resume marital cohabitation. It has been further submitted that the Family Court has grossly erred in computing the income of the petitioner and other financial obligations, leading to an arbitrary and excessive interim maintenance. Learned counsel has further argued that, in any case, the Family Court has adopted a wholly wrong approach while granting the quantum of interim maintenance and the same has been erroneously fastened upon the petitioner. Hence, it has been prayed that the quantum of interim maintenance awarded vide impugned order be set-aside.

3. *Per contra*, learned counsel for the respondents has argued that the learned Family Court though has determined the quantum of maintenance based on the consideration of the expenditure incurred for the upbringing of respondent Nos.2 and 3 (minor child) and the facts and circumstances of the case but the same deserves to be enhanced by taking into consideration the earning capacity as well financial status of the petitioner, who is earning handsomely. Learned counsel has further argued that the petitioner, who was working as a Research Scholar under SGPC Amritsar at Kalgidhar Niwas, Sector 27, Chandigarh, possesses significant assets, including investments in mutual funds and fixed deposits. It has been further argued that the respondent Nos.2 and 3 are school going children and have various additional expenses related to their education and overall development and hence the quantum of interim maintenance awarded vide impugned order is inadequate and the same deserves to be modified and enhanced accordingly.



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.*



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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”

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. Relationship between the parties is not in dispute. The facts of the instant case reflect that vide the impugned order; the respondents, who are the wife and minor sons of the petitioner-husband, have been granted interim maintenance at the rate of Rs. 11,000/- per month (i.e. Rs.3,000/- per month to respondent No.1-wife and Rs.4,000/- per month each to respondent

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Nos.2 and 3 (minor sons). In the considered opinion of this Court, the interim maintenance amount awarded must be reasonable and realistic. The sufficiency of the quantum has to be adjudged so that the wife/minor children are able to maintain themselves with reasonable comfort. Learned Family Court has found that the monthly income of the petitioner-husband, as per the affidavits (disclosure of assets and liabilities) placed on record, is Rs.31,170/- per month while working as Research Scholar in SGPC, Amritsar at Kalgidhar Niwas, Sector 27, Chandigarh whereas the monthly income of the respondent-wife is Rs.,36,500/- while working as a private Teacher. Furthermore, it has come on record that the minor children i.e. respondent Nos.2 and 3 are living with respondent No.1-wife (herein). In light of the above, the Family Court observed that the respondents (herein) cannot be left in destitution. Furthermore, considering the financial burden on the respondent-wife particularly in relation to the upbringing and welfare of the two minor sons, which she cannot bear alone and hence it is just and appropriate that the adequate provisions are made at this stage to support the respondents (herein) until the final resolution of the dispute. Moreover, the contentions raised by the learned counsel for the parties in the present two petitions that the respondent-wife possesses sufficient income to maintain herself and the minor sons or the petitioner-husband has sufficient source of income, are in fact, matter of trial and hence the same should not be delved into at this stage. The same can be ascertained only after adducing evidence by the parties. Moreover, the impugned order is only an interim measure in nature and not a final decision of the maintenance petition. The amount



depend on the final outcome of the maintenance petition filed by the respondent/wife. In the instant case, the amount of interim maintenance, which has been directed to be paid by the petitioner (herein), vide the impugned order cannot be said to be on the higher/lower side and is rather just and appropriate in the facts/circumstances of the present case.

8. In view of the above, the interim maintenance granted by the Family Court does not call for any interference. Accordingly, both the petition are hereby dismissed.

9. 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.

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

(SUMEET GOEL)
JUDGE

September 26, 2024
Ajay

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