



CRR(F)-1341-2022

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

255-1

CRR(F)-1341-2022

Date of decision: 13.11.2024

Manish Gupta

....Petitioner

V/s

Swati Gupta and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Nishant Indal, Advocate for the petitioner.

Mr. Tanmoy Gupta, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 04.10.2022 passed by the Additional Principal Judge, Family Court, Meham (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondents have been awarded interim maintenance at the rate of Rs.40,000/- per month (i.e. Rs.25,000/- per month to respondent No.1-wife and Rs.15,000/- per month to respondent No.2-minor son) 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 son of the petitioner (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.

2. Learned counsel appearing for the petitioner has iterated that the respondent-wife has filed a false, frivolous and misleading application before the Family Court, seeking interim maintenance, which the Family Court has granted without properly considering the facts and circumstances



of the case. It has been further iterated that the respondent-wife has left the matrimonial home on unreasonable and trivial grounds and hence the application under Section 125 of the Cr.P.C., 1973 is not maintainable *per se*. 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 petitioner-husband is employed at a private company in Delhi, earning a monthly salary of Rs.78,000/- and residing in rented accommodation with his ailing mother. However, the learned Family Court has disregarded the financial responsibilities of the petitioner-husband and granted the interim maintenance to the respondents that exceeds 50% of the monthly income of the petitioner. 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. *Per contra*, learned counsel for the respondents has argued that the learned Family Court has rightly allowed the application seeking interim maintenance as the respondent-wife has neither any source of income to maintain herself or the minor son nor any moveable or immoveable property. Furthermore, the Family Court has determined the quantum of maintenance based on the calculation of the income of the petitioner as also taken due consideration of the relevant facts and circumstances of the case. Thus, it has been prayed that the present petition be dismissed.

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

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.

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 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. Indubitably, the relationship between the parties is not in dispute. It is also undisputed that respondent No.1-wife and her minor son, are living separately from the petitioner-husband. The facts of the instant case reflect that vide the impugned order; the respondents, who are the wife and minor son of the petitioner, have been granted interim maintenance at the rate of Rs.40,000/- per month from the date of institution of the application. While going through the impugned order, it transpires that both the parties have submitted their affidavits in terms of the judgment passed by Hon’ble Supreme Court in the case of **Rajnesh** case (supra). The respondent No.1-wife has consistently maintained throughout the proceedings that she has neither any source of income nor possesses any moveable or



immoveable property and hence unable to bear the maintenance, education and other developmental expenses of her minor son, who is living with her. Furthermore, no credible evidence has been brought on record to establish that the respondent No.1-wife has any independent source of income or is engaged in any form of profitable employment. Conversely, the petitioner-husband, according to his own affidavit of disclosure of assets and liabilities, is employed as an Assistant General Manager at Hero Steel Ltd. Furthermore, from the salary slips for the months of June, 2022 and July, 2022, which have been submitted as evidence, it has been established that the petitioner-husband receives net salary of approximately Rs.79,900/-. The affidavit also disclosed that the petitioner-husband receives interest income from the bank. However, details of the same have not been provided by the petitioner-husband. The Family Court highlighted that the petitioner-husband has failed to provide his bank statements for the past three years as also his Income Tax Returns for the same period as per the judgment of the Hon'ble Supreme Court in the case of ***Rajnesh*** case (supra). Due to this lack of transparency, an adverse inference was drawn against the petitioner-husband by the Family Court.

7.1 It is a settled legal position, that for assessing the quantum of interim maintenance, it is imperative for the parties to submit Affidavit of disclosure of Assets and Liabilities, which would enable the Court to evaluate the financial capabilities of each party. The Court's reliance on Affidavits of Disclosure of Assets and Liabilities ensures a fair and informed assessment of interim maintenance, preventing potential concealment of income or financial mis-representation. In cases where a party fails to file the Affidavit of Disclosure of Assets and Liabilities, despite being given

“94. xxxxx xxxxx xxxxx

The onus is on the husband to establish with necessary material that there are sufficient grounds to show 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.

xxxxx xxxxx xxxxx”

7.2. 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 respondents 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.

8. 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.

9. Considering the facts and circumstances of the case, the amount of Rs.40,000/- per month, which has been directed to be paid by the petitioner (herein) to the respondents, 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.

10. 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.

11. 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.

12. 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