**CRM-43927-2024 & CRR(F)-1415-2024****-1-****123 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-43927-2024 & CRR(F)-1415-2024****Date of Decision: 07.11.2024****AMIT HOODA****... PETITIONER****VS.****AISH HOODA****.. RESPONDENT****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Ravinder Malik, Advocate
for the petitioner.

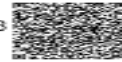
***********HARPREET KAUR JEEWAN, J.(ORAL)****CRM-43927-2024**

1. Prayer in this application is for condonation of delay of 140 days in filing the present petition.
2. For the reasons stated in the application, the delay of 140 days in filing the present petition is condoned.
3. Application stands allowed.

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4. Prayer in the present petition is for quashing of order dated 13.03.2024 passed by the Family Camp Court, Pataudi, Gurugram, whereby, the application filed by the respondent for grant of interim maintenance was allowed during the pendency of the petitioner under Section 125 Cr.P.C.
5. Learned counsel for the petitioner contends that the maintenance was sought on behalf of daughter of the petitioner, who is 27 years of age and is working in London on the post of Officer Manager (Account) in MAT Plus Ltd.

Company since January, 2023. The petition has been filed on behalf of the



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respondent-child through her mother as power of attorney. He further contended that before allowing the interim maintenance, even the affidavits regarding assets and liabilities in terms of the decision taken by the Hon'ble the Apex Court in the case of **"Rajnish Vs. Neha and another"; 2021 (2) SCC 224** were not filed.

6. Keeping in view the facts and circumstances of this case, issuance of notice to the respondent is dispensed with to avoid further delay in the matter.

7. Perusal of the interim order indicates that there is no reference that parties were directed to file an affidavit regarding their assets and liabilities. It has been held by the Hon'ble Apex Court in **Rajnish's case (supra)**, which reads as under:-

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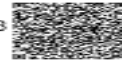
74. It has therefore become necessary to lay down a procedure to streamline the proceedings, since a dependant wife, who has no other source of income, has to take recourse to borrowings from her parents/relatives during the interregnum to sustain herself and the minor children, till she begins receiving interim maintenance. (iii) In the first instance, the Family Court in compliance with the mandate of section 9 of the Family Courts Act 1984, must make an endeavour for settlement of the disputes. For this, Section 6 provides that the State Government shall, in consultation with the High Court, make provision for counsellors to assist a Family Court in the discharge of its functions. Given the large and growing percentage of matrimonial litigation, it has become necessary that the provisions of section 5 and 6 of the Family Courts Act are given effect to, by providing for the appointment of marriage counsellors in every Family Court, which would help in the process of settlement.

75. If the proceedings for settlement are unsuccessful, the Family Court would proceed with the matter on merits. (iv) The party claiming maintenance either as a spouse, or as a partner in a civil union, live-in relationship, common law marriage, should be required to file a concise application for interim maintenance with limited pleadings, alongwith an Affidavit of Disclosure of Assets and Liabilities



before the concerned court, as a mandatory requirement. (v) On the basis of the pleadings filed by both parties and the Affidavits of Disclosure, the Court would be in a position to make an objective assessment of the approximate amount to be awarded towards maintenance at the interim stage. (vi) The Delhi High Court in a series of judgments beginning with *Puneet Kaur v. Inderjit Singh Sawhney* ILR (2012) I Delhi 73 and followed in *Kusum Sharma v. Mahinder Kumar Sharma* (2014) 214 DLT 493 ("Kusum Sharma I") directed that applications for maintenance under the HMA, HAMA, D.V. Act, and the Cr.P.C. be accompanied with an Affidavit of assets, income and expenditure as prescribed. In *Kusum Sharma II*, (2015) 217 DLT 706 the Court framed a format of Affidavit of assets, income and expenditure to be filed by both parties at the threshold of a matrimonial litigation. This procedure was extended to maintenance proceedings under the Special Marriage Act and the Indian Divorce Act, 1869. In *Kusum Sharma III* the Delhi High Court modified the format of the Affidavit, and extended it to maintenance proceedings under the Guardians & Wards Act, 1890 and the Hindu Minority & Guardianship Act, 1956. In *Kusum Sharma IV* 2017 - (2018) 246 DLT 1 the Court took notice that the filing of Affidavits alongwith pleadings gave an unfair advantage to the party who files the affidavit subsequently. In this judgment, it was clarified that the Affidavit must be filed simultaneously by both parties. In *Kusum Sharma V* Decided by the Delhi High Court vide Judgment dated 06.08.2020. the Court consolidated the format of the Affidavits in the previous judgments, and directed that the same be filed in maintenance proceedings. (vii) Given the vastly divergent demographic profile of our country, which comprises of metropolitan cities, urban areas, rural areas, tribal areas, etc., it was considered appropriate to elicit responses from the various State Legal Services Authorities ("SLSAs").

76. This Court vide its Order dated 17.12.2019 requested the National Legal Services Authority ("NALSA") to submit a report of the suggestions received from the SLSAs for framing guidelines on the Affidavit of Disclosure of the Assets and Liabilities to be filed by the parties. (viii) The NALSA submitted a comprehensive report dated 17.02.2020 containing suggestions from all the State Legal Service Authorities throughout the country. We find the various suggestions made by the SLSAs to be of great assistance in

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finalizing the Affidavit of Disclosure which can be used by the Family Courts for determining the quantum of maintenance to be paid. (ix) Keeping in mind the varied landscape of the country, and the recommendations made by the SLSAs, it was submitted that a simplified Affidavit of Disclosure may be framed to expedite the process of determining the quantum of maintenance.

77. We feel that the Affidavit to be filed by parties residing in urban areas, would require to be entirely different from the one applicable to rural areas, or tribal areas.

78. For this purpose, a comprehensive Affidavit of Disclosure of Assets and Liabilities is being attached as Enclosure I and II to this judgment. (x) We have been informed by the Meghalaya State Legal Services Authority that the State of Meghalaya has a predominantly tribal population, which follows a matrilineal system of society. The population is comprised of three tribes viz. the Khasis, Jaintia and Garo tribes. In Meghalaya, the youngest daughter is the custodian of the property, and takes important decisions relating to family property in consultation with her maternal uncle. The majority of the population is employed in the unorganized sector, such as agriculture. Under Section 10(26) of the Income Tax Act 1961, the tribals residing in this State are exempted from payment of income tax.

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8. Since the petition was not filed by the daughter of the petitioner in person, as such, the averments in the petition are not made on oath before the Family Court. In such circumstances, it is necessary to have affidavits of the parties regarding their asset and liabilities before deciding the request for grant of interim maintenance. Consequently, the impugned order dated 13.03.2024 is set aside and the matter is remanded back to the learned Family Camp Court Pataudi, Gurugram for fresh decision after affording an opportunity to both the parties to file affidavits in terms of the decision by the Hon'ble Apex Court in Rajnesh's case (supra).

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9. However, in the meantime, the petitioner would deposit a sum of Rs. 30,000/- in favour of the respondent by way of a demand draft before the learned Family Court which should be released to the respondent on the next date of hearing before the trial Court.

10. Pending applications, if any, shall also stand disposed of.

07.11.2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No