



123

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-1455-2024 (O&M)

Date of decision: 18.11.2024

Mohit Rana

... Petitioner

Vs.

Kamna Raghav and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

HARPREET SINGH BRAR, J. (ORAL)

CRM-45386-2024

1. This application has been filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 582 days in filing the revision petition.
2. In view of the averments made in the application, same is allowed and delay of 582 days in filing the revision petition is condoned.

CRR(F)-1455-2024

3. The present revision petition has been preferred against the impugned order dated 10.01.2023 passed by learned Additional Principal

2024:PHHC:149674



Judge, Family Court, Gurugram, vide which, in the proceedings initiated under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), interim maintenance of Rs.8,000/- per month each was awarded to be paid to the respondents.

4. The marriage between the petitioner and respondent No.1 was solemnized on 10.03.2019 according to Hindu rites and rituals. Out of this wedlock, one female child was born. However, matrimonial dispute ensued between the couple and the respondents filed a petition under Section 125 of Cr.P.C., in which an application seeking interim maintenance, was filed. The petitioner chose not to appear before the Court below, therefore, he was proceeded against ex-parte. Learned Family Court, vide impugned order dated 10.01.2023, granted interim maintenance allowance of Rs.8,000/- per month each in favour of both the respondents. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

5. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been proceeded against ex-parte and he has not been afforded adequate opportunity to defend his claim. Further, the impugned order granting interim maintenance to the respondents has been passed without following the guidelines issued by the Hon'ble Apex Court in ***Rajnish Vs. Neha and another, (2021) 2 SCC 324***, as affidavit of the petitioner declaring his assets, income and liabilities was never sought before passing the



impugned order.

6. Learned counsel for the petitioner submits that the petitioner is ready and willing to furnish the affidavit declaring his assets, income and liabilities and no prejudice would be caused to the respondents, in case the present petition is allowed.

7. Having heard learned counsel for the petitioner and after perusing the record with his able assistance, present petition is being decided *in limine* in view of directions issued by the Hon'ble Supreme Court in **Rajnesh's** case (*supra*), in order to save litigation cost of the respondents and judicial time of the Court.

8. While dealing with the issue, a two Judge Bench of the Hon'ble Supreme Court in **Rajnesh's** case (*supra*) laid down the criteria and issued the following directions:

"VI Final Directions

130. In view of the foregoing discussion as contained in Part B -1 to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India:

(a) Issue of overlapping jurisdiction

131. To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that:

2024:PHHC:149674



- (i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;*
- (ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;*
- (iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding*

(b) Payment of Interim Maintenance

132. The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.

(c) Criteria for determining the quantum of maintenance

133. For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B III of the judgment.

134. The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.

(d) Date from which maintenance is to be awarded

135. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B-IV above.

(e) Enforcement/Execution of orders of maintenance

136. For enforcement/execution of orders of maintenance, it is

2024:PHHC:149674



directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C may be applicable. The arder of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC more particularly Sections 51, 55, 58, 60 r.w. Order XXI."

9. In view of the above, present petition is disposed of and the impugned order dated 10.01.2023 is set aside and the matter is remanded back to learned Additional Principal Judge, Family Court, Gurugram with a direction to pass a fresh order within a period of six months from the date of receipt of certified copy of this order, after obtaining the affidavit of the petitioner declaring his assets, income and liabilities as mandated by the Hon'ble Apex Court in ***Rajnesh***'s case (*supra*).
10. In the meantime, the petitioner shall continue to pay the interim maintenance as awarded by learned Family Court vide impugned order dated 10.01.2023, as an interim measure.
11. The petitioner is directed to furnish the affidavit declaring his assets, income and liabilities within a period of six weeks from today.
12. In case the petitioner fails to abide by the undertaking given before this Court, present petition will be deemed to be dismissed.
13. All the pending miscellaneous application(s), if any, shall also stand disposed of.
14. Nothing observed hereinabove shall be construed as expression

2024:PHHC:149674



of opinion of this Court on merits of the case and learned Family Court shall proceed without being prejudiced by observations of this Court.

18.11.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No