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

CRM-M-57318-2024

Date of decision: 19.11.2024

Soan Kiran Sharma

....Petitioner

Versus

Ashish Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Alisha Soni, Advocate for
Mr. Ravi Dutt Sharma, Advocate
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 482 Cr.P.C. seeking modification of the impugned judgment dated 06.01.2018 (Annexure P-3) passed in Criminal Case No.17 of 2015 by the learned Judicial Magistrate 1st Class, Kaithal and the respondent may be directed to pay maintenance @ of Rs.25,000/- per month to the petitioner instead of Rs.4,000/- per month under Section 125 Cr.P.C.

Brief facts of the case are that the marriage of the petitioner and the respondent was solemnized on 11.02.2008 in accordance with Hindu rites and rituals. Out of this wedlock, no child was born. It is further alleged that matrimonial dispute ensued between the parties and the relations between the petitioner and the respondent became strained. The petitioner filed a petition under Section 125 Cr.P.C. seeking maintenance. The respondent filed a reply and contested the claim made by the petitioner. The learned Family Court vide judgment dated 06.01.2018 granted maintenance allowance of Rs.4,000/- per month



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to the petitioner. Aggrieved by the same, the petitioner has approached this Court by filing the present revision petition.

Learned counsel for the petitioner *inter alia* contends that the learned Family Court has passed the impugned judgment without obtaining the requisite affidavits of the parties declaring the assets, liabilities and income as mandated in view of the guidelines issued by the Hon'ble Supreme Court in '**Rajnish v. Neha and another**' (2021) 2 SCC 324. She further refers to the impugned judgment and submits that the requisite affidavit declaring the assets, liabilities and income of the parties which has been mandated by the Hon'ble Apex Court was never sought by the learned Family Court before passing the impugned judgment.

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

While dealing with the issue, a two Judge bench of the Hon'ble Supreme Court in **Rajnish'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 -I 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:*



(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 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 order 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." (emphasis added)

In view of the above, the impugned judgment dated 06.01.2018 is hereby set aside and the matter is remanded back to the learned Judicial Magistrate 1st Class, Kaithal and the Court below is directed to pass a fresh order within a period of six months from the date of receipt of certified copy of

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this order after considering the affidavits showing income, assets and liabilities of both the parties expeditiously, strictly in accordance with law as laid down in ***Rajnish's case (supra)***.

In the meantime, the respondent would continue to pay the maintenance i.e. Rs.4,000/- p.m. as awarded vide impugned judgment dated 06.01.2018, as an interim measure.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

19.11.2024
Neha

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