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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 29.08.2024

Mukesh Kumar

...Petitioner

V/s

Banita Devi and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sunil Agnihotri, Advocate for the petitioner.
Mr. APS Rana, Advocate for the respondents.

SUMEET GOEL, J. (Oral)

1. The instant revision petition has been preferred against the order dated 25.10.2023 passed by the Principal Judge, Family Court, Nangal (hereinafter to be referred as 'impugned order') praying for setting-aside of the said order. Vide the impugned order; the respondents (herein) have been awarded interim maintenance at the rate of Rs.10,000/- per month (i.e. Rs.6,000/- per month to respondent No.1-wife and Rs.4,000/- per month to respondent No.2 (minor)) to be paid by the petitioner (herein) from the date of the application Further a sum of Rs.10,000/- as litigation expenses has been awarded to respondent No.1-wife. The respondent No.1-wife (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, Nangal stating that she is the wife of the petitioner (herein) and is unable to maintain herself and hence the interim maintenance ought to be awarded to her.

2. Learned counsel appearing for the petitioner has argued that the learned Family Court has erred in determining the quantum of interim



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maintenance awarded to the respondents (herein) insofar as the income of the petitioner is concerned. According to the learned counsel, the Family Court, in assessing the quantum of interim maintenance, has completely overlooked the fact that the respondent No.1 is well educated and imparting tuitions and hence has sufficient source of income to maintain herself. Learned counsel has further argued that, in any case, the Court below has wholly adopted an unpragmatic approach while granting the quantum of interim maintenance and the same has been erroneously fastened upon the petitioner. Thus, it has been prayed that the instant petition be accepted and the impugned order dated 25.10.2023 be set-aside.

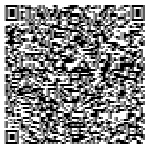
3. *Per contra*, learned counsel for the respondent submits that the learned Family Court has determined the quantum of maintenance based on the calculation of the income of the petitioner; consideration of the expenditure incurred for the education of respondent No.2 (minor son) as also taken due consideration of the relevant facts and circumstances of the case. Furthermore, the respondent-wife is living at the mercy of her parents without any support from the petitioner. 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

- (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.

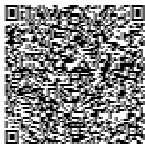
74. It has therefore, become necessary to lay down a procedure to streamline, the proceedings, since a dependant wife, who has no other source of income, has to take recourse to borrowings from her parents/relatives during the interregnum to sustain herself and the minor children, till she begins receiving interim maintenance.

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

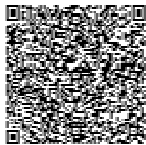
132. The Affidavit of Disclosure of Assets and Liabilities annexed at Enclosures I, II and III of this judgment, as may be applicable, shall be filed by the parties in all maintenance proceedings, including pending



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 Court below, 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. The facts of the instant case reflect that vide the impugned order; the respondents (herein), who are the wife and minor child of the petitioner, have been granted interim maintenance at the rate of Rs.10,000/- per month. The plea of the petitioner-husband that he does not possess sufficient source of income *ipso facto* does not absolve him of his moral duty to maintain his wife/children. The interim maintenance amount awarded must be reasonable and realistic. The interim maintenance awarded to the wife/children should neither be so extravagant which becomes oppressive and unbearable for the husband, nor should it be so meager that it drives the wife/children to penury. The sufficiency of the quantum has to be adjudged so that the wife/children are able to maintain themselves with reasonable comfort. In the instant case, it is borne out from the record that



the petitioner is working as JBT Teacher on contract basis and also belonged to a well educated family. The amount of Rs.10,000/- per month, which has been directed to be paid by the petitioner (herein), 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. It is trite law that the Court has to strike a balance in case a husband neglects or refuses to maintain his wife/children & the wife who is struggling financially and is unable to maintain herself can take benefit of the provision of Section 125 Cr.P.C. which would serve as a quick remedy.

8. In view of above, the interim maintenance granted by the Court below does not call for any interference. Accordingly, the instant petition is hereby dismissed.

9. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the Court below shall proceed further, in accordance with law, without being influenced with them.

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

(SUMEET GOEL)
JUDGE

August 29, 2024
Ajay

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