



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

114

CRM-M-64743-2023

Date of decision: 22.10.2024

Neeru Bala

....Petitioner

V/s

Vijay Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Raj Kumar Arya, Advocate for the petitioner.

Mr. TPS Bhatti, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. The instant petition has been preferred against the order dated 19.09.2023 passed by the learned Principal Judge, Family Court, Gurdaspur (hereinafter to be referred as 'impugned order') praying for modification of the said order for enhancing the quantum of interim maintenance awarded by the said order. Vide the impugned order; the petitioner-wife (herein) has been awarded interim maintenance at the rate of Rs.8,000/- per month to be paid by the respondent-husband (herein) from the date of the application alongwith litigation expenses of Rs.3000/-. The petitioner (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, Gurdaspur stating that she is the wife of the respondent (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 iterated that the learned Family Court has erred in determining the quantum of interim maintenance awarded to the petitioner (herein) insofar as the income of the respondent is concerned. It has been further iterated that it is an established



law that while calculating the interim maintenance, the income of the wife must be taken into account. However, in the instant case, the petitioner has successfully demonstrated that she has no source of income. It has been further argued that the Family Court ought to have considered the disparity between the actual income of the respondent and the paltry sum awarded, which is grossly inadequate to meet even the basic necessities of life. It has been submitted by learned counsel that the wife is entitled to maintain the same standard of living as her husband. However, despite the uncontested assertion of the petitioner that the respondent earns more than Rs.69,095/- per month as an Instructor at the Government ITI, Pathankot, and possesses valuable property, the petitioner was only granted a minimal interim maintenance amount of Rs.8,000/- per month. Learned counsel has further submitted that the interim maintenance awarded by the Family Court is grossly inadequate and hence the maintenance amount awarded is insufficient to sustain a decent and respectable living for the petitioner. Thus, the enhancement of the interim maintenance amount is immediately warranted.

3. *Per contra*, learned counsel for the respondent has argued that the learned Family Court has erred in determining the quantum of interim maintenance awarded to the petitioner (herein) insofar as the income of the respondent is concerned. Learned counsel has submitted that although the respondent had solemnized the marriage with the petitioner, it is alleged that the petitioner already had performed marriage with other individuals without having legally obtained a divorce from them. According to learned counsel, the petitioner has not only concealed her previous marriages but also



considered this aspect before fastening with the liability of the payment of interim maintenance at the rate of Rs.8,000/- per month. Hence, dismissal of the instant petition has been prayed for.

4. I have heard learned counsel for the rival parties and have perused the record.

5. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as ***Rajnesh 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 is 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.

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(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.

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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;

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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. The facts of the instant case reflects that vide the impugned order; the petitioner (herein), who is the wife of the respondent, has been granted



petitioner-wife is that the Family Court ought to have granted higher amount of interim maintenance considering the factual matrix of the *lis*. In the considered opinion of this Court, the interim maintenance amount awarded must be reasonable and realistic. The interim maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the husband, nor should it be so meager that it drives the wife to penury. While going through the impugned order, it transpires that both the parties have furnished their affidavits regarding their assets, income and expenditure. In her affidavit, the petitioner-wife (herein) has stated that she is unemployed and has no independent source of income to support herself. Conversely, in his affidavit, the respondent disclosed that he is employed as an Instructor at the Government ITI, Pathankot, earning a monthly salary of Rs.69,095/-, out of which he pays Rs.23,925/- per month as EMI to the State Bank of India. The aforesaid claims made by both the parties before the Family Court are subject to verification through evidence. Accordingly, the Family Court held that there is no evidence on record to suggest that the petitioner is financially capable of supporting herself and hence the respondent-husband is obligated to provide financial support to her. Accordingly, an amount of Rs.8,000/- per month, was directed to be paid by the respondent (herein) by the Family Court vide the impugned order. It is trite law the financial capacity of the husband and the needs of the wife must be balanced in determining the quantum of maintenance, ensuring that the wife is not subjected to financial hardship. In the considered opinion of this Court, the interim maintenance awarded by the Family Court is justified and does not warrant any interference or modification. The quantum of interim



circumstances of both the parties. Moreover, the contentions raised by the learned counsel for the petitioner in the present petition are factual in nature and are matter of trial and no ratiocination on the same can be made at this stage. The same can be ascertained only after adducing evidence by the parties. It is also apparent from the record that the order under challenge is only an interim in nature and not a final decision of 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 petitioner/wife. In the instant case, the amount of interim maintenance, which has been directed to be paid by the respondent (herein), vide the impugned order cannot be said to be on the lower side and is rather just and appropriate in the facts/circumstances of the present case.

8. In view of the above, the interim maintenance granted by the Family Court 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 the merits of the case and the Family Court shall proceed further, in accordance with law, without being influenced therefrom.
10. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

October 22, 2024
Ajay