



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-10-2024

Date of decision:16.12.2024

Kuldeep Kaur and another

.... Petitioners

V/s

Onkar Singh Dhaliwal

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. J.S. Warring, Advocate for the petitioners.

Mr. J.S. Dhaliwal, Advocate for the respondent.

SUMEET GOEL, J.

1. The instant revision petition has been preferred against the order dated 15.11.2023 passed by the Principal Judge, Family Court, Sri Muktsar Sahib (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 petitioners (herein) have been awarded interim maintenance at the rate of Rs.5,000/- per month (i.e. Rs.3,000/- per month to petitioner No.1-wife and Rs.2,000/- per month to petitioner No.2-minor son till he attains the age of majority) to be paid by the respondent (herein) from the date of the application alongwith litigation expenses of Rs.5,000/-. The petitioners (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, Sri Muktsar Sahib stating that they are the wife and the minor son, respectively, of the respondent (herein) and are unable to maintain themselves and hence the interim maintenance ought to be awarded to them.



2. Learned counsel appearing for the petitioners has iterated that the learned Family Court has erred in determining the quantum of interim maintenance awarded to the petitioners (herein) insofar as the income of the respondent is concerned. It has been further iterated that the petitioner No.1, being a house wife, has no source of income and was entirely dependent on the respondent. The learned Family Court has failed to consider that petitioner No.1 alongwith her minor son, is residing with her parents and lacks independent income or shelter. It has been further submitted that the respondent is working as a Radiographer at Pioneer Imaging Diagnostics, Bathinda and earning a salary of Rs.35,000/- and owns 5 acres of land. According to learned counsel, the total income of the respondent-husband is estimated to be between Rs.80,000/- to Rs90,000/- per month from various sources, though he has not fully disclosed his earnings. It is well-established legal principle that a husband who is healthy and capable of earning is legally obligated to provide for his wife. Furthermore, the learned Family Court ought to have considered the assertions made in the applications (Annexure P-1 and P-2) and the affidavit of disclosure of assets and liabilities submitted by the respondent (Annexure P-6). It has been further submitted that the respondent has falsely claimed that his parents are dependent on him, whereas his father owns more than 05 acres of land in his name. It has been further submitted that the Family Court has committed a grave error in accepting the claim of the respondent that he is earning Rs.21,000/- per month solely based on his affidavit. The family Court has failed to note that the respondent has concealed his true income from various sources. 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. Learned counsel has submitted that taking into consideration the ever-increasing cost of living, including essential commodities, education, medical expenses and other household needs, the enhancement of the maintenance amount is urgently warranted. Learned counsel has further submitted the recurring costs have escalated significantly due to inflation and increasing living costs, making it impossible for the petitioners to manage on a meager sum of Rs.5,000/- per month. Learned counsel has argued that the maintenance amount awarded is insufficient to sustain a decent and respectable living standard for the petitioners and hence the quantum of interim maintenance be modified suitably.

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 petitioners (herein) insofar as the income of the respondent is concerned. Learned counsel has submitted that the petitioner No.1 has sufficient means of income to maintain herself as she knows the work of stitching. According to learned counsel, the respondent is working in a private lab with monthly salary of Rs.15,000/- and is also taking care of his old aged parents who are completely dependent upon him. 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 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.

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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 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 as also the birth of minor child is not in dispute. The facts of the instant case reflect that vide the impugned order; the petitioners (herein), who are the wife and minor son of the respondent, have been granted interim maintenance at the rate of Rs.5,000/- per month (i.e. Rs.3,000/- per month to petitioner No.1- wife and Rs.2,000/- per month to petitioner No.2-minor son till he attains the age of majority.). While going through the impugned order, it transpires that



both the parties (i.e. the petitioner No.1-wife and the respondent-husband), have placed on record their respective affidavits with regard to disclosure of their respective incomes, assets and liabilities in terms of the judgment of the Hon'ble Supreme Court titled as **Rajnesh** case (supra). As per the affidavit of the petitioner No.1-wife, she has no immovable property, source of income, bank account, vehicle or any movable assets. Her monthly expenses amount to Rs.20,000/- for herself and Rs.15,000/- for petitioner No.2-minor son. Conversely, the respondent-husband claims his monthly income to be Rs.21,000/- in his affidavit with Rs.15,000/- as expenditure, indicating a net saving of Rs.6,000/- per month. He owns 01 acre of agricultural land yielding Rs.2,000/- monthly and maintains a bank account in HDFC Bank. Furthermore the respondent also supports his elderly parents and had produced medical bills from July 2023 to substantiate his claim. However, the petitioner No.1-wife had produced a cutting of the newspaper whereby father of the respondent had disowned him due to ongoing matrimonial disputes. Based on the affidavits of disclosure of income and expenditure and the liabilities of both the parties, the Family Court has directed the respondent-husband to pay Rs.5,000/- per month to the petitioners (herein) effective from the date of filing of the petition.

7.1. It is trite law that 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 as also the minor child is not subjected to financial hardship. The record of the case establishes that the respondent-husband is supporting his elderly parents and requires financial resources for their care. The medical bills and treatment slips submitted by the respondent



before the Family Court pertain to July 2023. In contrast, the petitioner No.1-wife has produced a newspaper cutting of the year 2021 wherein the respondent was disinherited by his family due to matrimonial disputes. This apparently suggests that the respondent-husband has since reconciled with his parents and is currently residing with them; providing the necessary care and financial support. In the considered opinion of this Court, the quantum of interim maintenance has been determined by the Family Court taking into account the financial circumstances of both the parties. Moreover, the contentions raised by the learned counsel for the petitioners 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

December 16, 2024
Ajay

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