



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

268

CRR(F)-349-2024 (O&M)

Date of decision: 15.10.2024

Hitesh Sindwani

....Petitioner

V/s

Indu Rani

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Shubham Bhalla, Advocate for the petitioner.
(through Video Conference).

Mr. Karambir Singh, Advocate and
Mr. Varun Dhawan, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 29.09.2023 passed by the Additional Principal Judge, Family Camp Court, Pataudi, Gurugram (hereinafter to be referred as the 'concerned Family Court') praying for setting-aside of the said order. Vide the impugned order; the respondent (herein) has been awarded interim maintenance at the rate of Rs.5,000/- per month to be paid by the petitioner (herein) from the date of filing of petition.

2. Learned counsel for the petitioner has iterated that the respondent has filed a false, fabricated, frivolous and vexatious petition before the learned Family Court with the dishonest and fraudulent intention of causing mental torture to the petitioner. It has been further reiterated that the actions of the respondent demonstrate a clear abuse of the judicial process, with the sole purpose of harassing the petitioner-husband.

According to learned counsel, the Family Court ought to have dismissed the

petition at the very first instance, as the respondent (herein) intentionally



misrepresented the material facts before the Family Court. Learned counsel has further submitted that the respondent, in her petition before the Family Court, has wrongly claimed herself to be housewife with no source of income. Referring to the affidavit of the disclosure of Assets and Liabilities of the respondent, which is appended as Annexure P-6, learned counsel has submitted that the respondent-wife was employed as an insurance agent in a company established by her in conjunction with her brother. It is, thus, respectfully submitted that the respondent's deliberate attempt to conceal her true financial status and professional engagements constitutes a gross abuse of the process of the Court. Furthermore, the respondent-wife is a well qualified individual who is actively preparing for competitive exams, thus, indicating that she is both capable and engaged in professional activities. It has been further reiterated that the learned Family Court, while determining the quantum of interim maintenance, has not taken into consideration the inability of the petitioner to pay the amount as he is unemployed as also disowned by his family and hence cannot even meet his own expenditure/needs. It has been further argued, that the respondent has refused to live with the petitioner without any justifiable cause which further demonstrates that the respondent-wife has no justifiable grounds for seeking maintenance. Learned counsel has further argued that the Family Court ought to have considered this aspect before fastening with the liability to pay the interim maintenance to the respondents. Thus, it has been prayed that the impugned order is patently illegal, perverse and suffers from material illegalities and infirmities and the same is liable to be set-aside.

3. *Per contra*, learned counsel for the respondent has argued that

the learned Family Court has rightly allowed the application seeking interim



maintenance as the respondent-wife has neither any source of income to maintain herself nor any movable and immovable property in her name. Furthermore, the Family Court has determined the quantum of maintenance based on the calculation of the income of the petitioner as also taken due consideration of the relevant facts and circumstances of the case. 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 ***Rajnesh vs. Neha & Anr.: 2021(2) SCC 324***; relevant whereof reads as under:-

“II Payment of interim Maintenance

1. *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.*
2. *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 reflect that vide the impugned order; the respondent, who is the wife of the petitioner, has been granted interim



While going through the impugned order, it transpired that the respondent has consistently maintained throughout the proceedings that she is financially dependent on her parental family. As per the affidavit of assets and liabilities filed before the Family Court, the respondent-wife is currently employed as an insurance agent and has declared a total income of Rs.5,000/-, while also mentioning an additional sum of Rs.35,000/- which is not indicative of her regular monthly earning. Furthermore, the respondent has disclosed that she has taken a personal loan of Rs.3.00 lacs with an ongoing monthly instalment of Rs.14,356/-, a figure that is disproportionate to the income declared by her. However, the respondent-wife (herein) has taken a stand before the Family Court that she is receiving the financial support from her parental family and the payments are being credited to her bank account from the clients of her brother, who is a Chartered Accountant. However, this assertion before the Family Court, remains unverified and is subject to scrutiny during the course of evidence. Furthermore, the petitioner-husband has himself shown to be unemployed. It is imperative to note herein that the monthly expenses of the petitioner-husband are Rs.7400/- per month, though as per his affidavit of declaration of assets and liabilities filed before the Family Court, he has claimed to be unemployed. This discrepancy raises serious questions about the veracity of his claims and his true financial standing and does not provide a reliable basis for determining the overall income of the petitioner. Be that as it may, at this juncture, the contentions raised by learned counsel for the petitioner in the present petition with regard to factual aspect, are matter of trial and no ratiocination on the same can be effectively made at this stage. The same can



from the record that the order under challenge is only interim in nature and not a final decision on 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 respondent/wife.

7.1. Considering the facts and circumstances of the case, the amount of Rs.5,000/- per month, which has been directed to be paid by the petitioner (herein) to the respondent, 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.

8. In view of 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 merits of the case and the Family Court 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

October 15, 2024
Ajay

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