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

**CRR-851-2025 (O&M)
Date of decision: 04.04.2025**

DAVINDERDEEP SINGH

...Petitioner(s)

VERSUS

PARAMJEET KAUR

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

CRM-13074-2025

Prayer in this application is for condonation of delay of 176 days in filing the present revision petition.

Learned counsel for the applicant-petitioner submitted that earlier the applicant-petitioner had filed a revision petition before this Court but the same was withdrawn to file fresh in view of judgment of Division Bench of this Court in CR-3407-2024 and that was the reason as to why delay for 176 days has been caused in filing the present revision petition.

After hearing the learned counsel for the applicant-petitioner and perusing the present application, this Court is of the considered view that the aforesaid delay of 176 days in filing the present revision petition deserves to be condoned.



Consequently, the present application is allowed and the delay of 176 days in filing the present revision petition, is hereby condoned.

CRR-851-2025

1. The present revision petition has been filed for setting aside the impugned judgment dated 24.05.2024 passed by the learned Sessions Judge, Ferozepur, vide which the appeal filed by the respondent-wife for enhancement of interim maintenance was allowed and the interim maintenance which was granted to the respondent-wife by the learned Additional Chief Judicial Magistrate, Ferozepur vide order dated 22.11.2023 was enhanced from Rs.10,000/- per month to Rs.20,000/- per month in the facts and circumstances of the case.

2. The brief facts of the present case are that the respondent-wife filed a petition under Section 125 Cr.P.C. for grant of maintenance. An application for grant of interim maintenance was also filed which was decided by the learned Additional Chief Judicial Magistrate, Ferozepur vide order 22.11.2023, vide which an amount of Rs.10,000/- per month as interim maintenance was granted to the respondent-wife. The respondent-wife assailed the aforesaid order passed by the learned Additional Chief Judicial Magistrate, Ferozepur by filing an appeal before the learned Sessions Judge, Ferozepur for enhancement of the aforesaid interim maintenance and at the same time, the petitioner-husband also assailed the aforesaid order before the learned Sessions Judge, Ferozepur, vide which the aforesaid interim maintenance of Rs.10,000/- per month was fixed. The learned Sessions Judge, Ferozepur took up both the appeals together and dismissed the appeal filed by the petitioner-husband and allowed the appeal filed by the respondent-wife and the amount of interim maintenance was enhanced from Rs.10,000/- per month to Rs.20,000/- per month.



3. The husband, who is the petitioner has now challenged the aforesaid judgment passed by the learned Sessions Judge, Ferozepur only and there is no challenge in the present revision petition to the order passed by the learned Additional Chief Judicial Magistrate, Ferozepur. In other words, the challenge is now only restricted to the enhancement of interim maintenance from Rs.10,000/- per month to Rs.20,000/- per month.

4. Learned counsel for the petitioner submitted that the learned Sessions Judge, Ferozepur while considering the appeal filed by the petitioner did not take into consideration the fact that the petitioner was having no source of income so as to pay an amount of Rs.20,000/- per month as interim maintenance and the business in the nature of running of factories which has been shown and referred to in the judgment passed by the learned Sessions Judge, Ferozepur is a joint property of the family and no presumption can be drawn that the petitioner would be earning Rs.50,000/- per month and the said presumption has been drawn by the learned Sessions Judge, Ferozepur on the basis of which interim maintenance has been enhanced from Rs.10,000/- per month to Rs.20,000/- per month. He further submitted that the petitioner was also re-paying a huge loan which he had taken for purchase of various commercial equipment and large monthly installments pertaining to the aforesaid factories are also being paid and therefore, it was not within his capacity to pay interim maintenance to the respondent-wife and the minor daughter to the tune of Rs.20,000/- per month and therefore, the judgment vide which interim maintenance was enhanced from Rs.10,000/- per month to Rs.20,000/- is liable to be set aside.

5. I have heard the learned counsel for the petitioner.



6. The respondent-wife filed a petition under Section 125 Cr.P.C. for grant of maintenance and a perusal of the order passed by the learned Additional Chief Judicial Magistrate, Ferozepur would show that at that point of time, the minor daughter, who was born on 12.10.2021 was with the petitioner-husband but during the pendency of the application for grant of interim maintenance, the respondent-wife was given the custody of the minor daughter by order of the Court and the minor daughter, who was of the age of just about 2 years was under the care and custody of respondent-wife at the time of the passing of the order, vide which interim maintenance was granted. In this way, the interim maintenance which has been granted is for both the respondent-wife and the minor daughter of the age of 2/3 years.

7. When the learned Additional Chief Judicial Magistrate, Ferozepur considered the application filed by the respondent-wife for grant of interim maintenance under Section 125 Cr.P.C., it had come on record that the petitioner-husband owns cranes for the purpose of his business and he did not deny that he purchased three cranes but on loan and also paying installments of the same. The respondent-wife was not having any source of income and at the same time, she was having the care and custody of the minor girl child of the age of 2 years at the time of the passing of the order by the learned Additional Chief Judicial Magistrate, Ferozepur and on the basis of the aforesaid facts and circumstances where rather the petitioner was paying installments of loan on equipment and had made huge investment, then at that stage, the learned Additional Chief Judicial Magistrate, Ferozepur thought it fit that since no concrete evidence has come on the record pertaining to the actual income of the petitioner-husband, it was expected that he must be earning at least Rs.20,000/- per month and



therefore, interim maintenance of Rs.10,000/- per month was granted to the respondent-wife and minor child.

8. Against the aforesaid order passed by the learned Additional Chief Judicial Magistrate, Ferozepur, the petitioner-husband preferred an appeal, which was dismissed vide judgment dated 24.05.2024 by the learned Sessions Judge, Ferozepur and by way of the aforesaid impugned judgment, the appeal filed by the respondent-wife was allowed and interim maintenance was enhanced from Rs.10,000/- per month to Rs.20,000/- per month. The learned Sessions Judge, Ferozepur while discussing the facts of the case observed that interim maintenance was required to be decided on the basis of the affidavits pertaining to declaration of assets and liabilities filed by both the parties. It was further observed that a perusal of the record shows that the affidavit was filed only by the respondent-wife but no affidavit has been filed by the petitioner-husband to counter the affidavit filed by the respondent-wife. There was no explanation from the petitioner to have abstained from filing the affidavit and at the same time, respondent-wife had filed the affidavit declaring her assets and liabilities. In the affidavit which was filed by the respondent-wife, she specifically stated that she has Rs.50,000/- per month as expenditure on account of dependent minor daughter and further specifically stated that she does not have any source of income or property in her name.

9. On the other hand, so far as the income of the petitioner-husband is concerned, although he did not choose to file his affidavit, the respondent-wife deposed that the petitioner is running two factories in the name of M/s Nikku Engineering at Basti Butewali (Bazidpur) and M/s Handa Works at Talwandi Bhai and are manufacturing machinery for rice shellers. She had also deposed that the petitioner was having six cranes and Hyundai Verna car and also having monthly



income of Rs.5,00,000/-. It further came on the record that so far as M/s Nikku Engineering Works is concerned, it had obtained loan for purchase of commercial equipment and an amount to the tune of Rs.15,90,000/- was financed by HDFC Bank and an amount of Rs.38,413/- is paid as installment. There was another loan obtained by M/s Nikku Engineering Works for purchase of commercial equipment to the tune of Rs.17,73,090/- and monthly installment of Rs.42,836/- is paid as installment. Furthermore, statement of account of aforesaid M/s Nikku Engineering Works shows that there was a balance of Rs.14,97,426/- in the bank account.

10. Not only this, although the petitioner-husband did not specifically choose to file his affidavit on the basis of which interim maintenance was to be considered in accordance with the judgment passed by Hon'ble Supreme Court in **Rajnish versus Neha and another, (2021) 2 SCC 324** but he certainly filed reply to the application under Section 125 Cr.P.C., in which he admitted that he owns three cranes, which have been purchased on finance basis on loan and installments are to be paid. The learned Sessions Judge, Ferozepur on the basis of the aforesaid facts and circumstances observed that a perusal of the repayment schedule of M/s Nikku Engineering Works clearly shows that monthly amount to be repaid was to the tune of Rs.35,000/- to Rs.45,000/- for each loan and therefore, came to the conclusion that considering the aforesaid facts and circumstances, the amount of Rs.10,000/- per month fixed as interim maintenance by the learned Additional Chief Judicial Magistrate, Ferozepur was on the lower side and considering the monthly income of the petitioner-husband to the tune of Rs.50,000/- per month, enhanced the interim maintenance from Rs.10,000/- per month to Rs.20,000/- per month.



11. In terms of the law laid down by Hon'ble Supreme Court in *Neha's case (Supra)*, both the parties for the purpose of considering grant of interim maintenance are bound to file their respective affidavits pertaining to declaration of their assets and liabilities. The respondent-wife filed her affidavit but the petitioner-husband did not file his affidavit, although he filed his reply to the application filed under Section 125 Cr.P.C. It was the argument of the learned counsel for the petitioner in the present case that the aforesaid amount of interim maintenance of Rs.20,000/- per month was on the higher side because the petitioner was not in the capacity to pay. As to how the same can be ascertained is only by following a procedure by submitting affidavits declaring assets and liabilities, which the petitioner-husband failed to do despite the fact that the respondent-wife did file her affidavit. Therefore, only an adverse inference can be drawn against the petitioner that had he filed his affidavit declaring his assets and liabilities then probably a different view may have been taken by both the learned Courts below for the purpose of fixation of interim maintenance and which could have been on the much higher side as well.

12. Be that as it may, the petitioner has come up before this Court only for the purpose of impugning the enhanced amount. In other words, the petitioner has not challenged before this Court the order passed by the learned Additional Chief Judicial Magistrate, Ferozepur, vide which interim maintenance was granted and therefore, the fact pertaining to the marriage between the parties, minor daughter of the age of 2-3 years born out of the said wedlock and the fact that the minor daughter is in the care and custody of the respondent-wife cannot be disputed. The respondent-wife is not earning anything and has no source of income or any property in her name also cannot be disputed, at this stage, since the basic



order passed by the learned Additional Chief Judicial Magistrate, Ferozepur has not been challenged by the petitioner in the present revision petition.

13. Therefore, this Court will consider two aspects of the present case. Firstly, as to whether the aforesaid quantum of interim maintenance which was enhanced from Rs.10,000/- per month to Rs.20,000/- per month was on the higher side or not and secondly, as to whether considering the aforesaid facts and circumstances, the petitioner has chosen to file the present revision petition was desirable or not and as to whether it will amount to perpetuating litigation especially in view of the fact that he did not choose to file his affidavit declaring his assets and liabilities and rather has chosen to file the present revision petition.

14. So far as the first aspect is concerned, as discussed above, it is only the quantum of interim maintenance as fixed by the learned Sessions Judge, Ferozepur which the petitioner has challenged by way of filing the present revision petition. The facts which have been so revealed before the learned Sessions Judge, Ferozepur as well would show that the petitioner-husband is certainly doing a business, which may be with his other family members but huge transactions, loans payments etc. are there. The petitioner-husband committed default in not filing the affidavit declaring his assets and liabilities despite the fact that the respondent-wife had filed the same. Certainly adverse inference has to be drawn against the petitioner-husband. Therefore, this Court is of the considered view that the amount of Rs.20,000/- per month fixed as interim maintenance for a wife considering her status and the fact that the petitioner-husband is a businessman and also the fact that the respondent-wife is having no source of income or any property in her name coupled with the fact that she is having the care and custody of the minor daughter, who is now of the age of 3 years cannot be said to be on the



higher side by any stretch of imagination especially considering the inflationary tendencies and the expenditure involved for raising a minor girl child and for her own livelihood.

15. So far as the second aspect is concerned as to whether it was desirable for the petitioner-husband to have assailed the aforesaid judgment passed by the learned Sessions Judge, Ferozepur and as to whether the present petition was vexatious or not, the facts and circumstances of the present case would suggest that the petitioner himself committed default in not choosing to file the affidavit declaring his assets and liabilities, whereas the respondent-wife filed her affidavit. The learned Sessions Judge, Ferozepur referred to all the businesses, loans, EMIs etc. which run into huge figures and on the basis of the aforesaid since it was only an application for considering the grant of interim maintenance, which otherwise could not have been prolonged being in the nature of interim maintenance only decided the same and enhanced the quantum of interim maintenance from Rs.10,000/- per month to Rs.20,000/- per month for both the mother i.e. the respondent and for minor daughter of the age of 3 years. Therefore, this Court is of the considered view that the present revision petition filed by the petitioner is vexatious and with a motive to perpetuate litigation.

16. In view of the aforesaid facts and circumstances, the present revision petition is hereby dismissed with Rs.50,000/- (Fifty Thousand) as costs. The petitioner is hereby directed to deposit the aforesaid costs before the Court of learned Additional Chief Judicial Magistrate, Ferozepur, within a period of three months from today. On his depositing the aforesaid costs, the learned Additional Chief Judicial Magistrate, Ferozepur shall give the aforesaid amount to the minor child by way of any suitable fixed deposit through her mother, or



by depositing the amount in the name of girl child in any suitable Government Scheme such like Sukanya Samriddhi Yojna etc. or whichever method is most beneficial and suitable for a girl child as per wisdom of the learned Additional Chief Judicial Magistrate, Ferozepur.

17. The learned Additional Chief Judicial Magistrate, Ferozepur shall also ensure that the aforesaid costs are deposited by the petitioner within the aforesaid stipulated period and in case the same is not done, then the learned Additional Chief Judicial Magistrate, Ferozepur shall recover the same from the petitioner in accordance with law. In case the aforesaid amount of costs is still not deposited by the petitioner for any reason then after the expiry of four months, the learned Additional Chief Judicial Magistrate, Ferozepur shall prepare a report and send the same to this Court and on receipt of the said report, the Registry shall list this case before this Court so that recovery can be made from the petitioner in accordance with law including recovery as arrears of land revenue etc.

18. A copy of this order be sent to the learned Additional Chief Judicial Magistrate, Ferozepur.

(JASGURPREET SINGH PURI)
JUDGE

04.04.2025
Chetan Thakur

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