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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-221-2025(O&M)
Date of Decision: 25.03.2025

Pawan Kumar

....Petitioner

Versus

Yomi and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sandeep Sharma, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present revision petition has been filed for setting aside the impugned order dated 21.12.2024 passed by the learned Principal Judge, Family Court, Narnaul, vide which interim maintenance has been granted to the tune of Rs.8,000/- per month to respondent No.2-wife and to the tune of Rs.7,000/- per month to respondent No.1-minor son, who is of the age of 5 years.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where earlier an order was passed by the learned Principal Judge, Family Court, Narnaul dated 17.08.2023 whereby interim maintenance of the same amount as aforesaid was granted to the respondents but the same was assailed by filing a revision petition before this Court, which was set aside on the ground that affidavits declaring the assets and liabilities of the parties in terms of the judgment passed by Hon'ble Supreme Court in *Rajnish versus Neha and another, (2021) 2 SCC 324* were not filed and therefore, the aforesaid order was set aside with a direction to



pass a fresh order after getting the affidavits in terms of judgment passed by Hon'ble Supreme Court in ***Rajnesh's case (Supra)***. He further submitted that now a fresh order has been passed dated 21.12.2024, vide which same amount has been fixed as interim maintenance for the respondents i.e. Rs.8,000/- per month for respondent No.2-wife and Rs.7,000/- per month for respondent No.1-minor son, who is of the age of 5 years.

3. Learned counsel further submitted that so far as the factum of marriage between the petitioner and respondent No.2 is concerned, the same is not in dispute and it is also not in dispute that respondent No.1-minor son was born out of the said wedlock, who is of the age of 5 years and is in the care and custody of respondent No.2-wife. He further submitted that the learned Principal Judge, Family Court, Narnaul has assessed the income of the petitioner-husband as Rs.35,000/- to Rs.40,000/- per month for the purpose of considering the application for the grant of interim maintenance, although the petitioner was having no source of income even as per his affidavit, which was filed pertaining to declaration of his assets and liabilities. He further submitted that so far as respondent No.2-wife is concerned, she has filed a false affidavit as she was actually earning but is shown not to be earning any amount in the aforesaid affidavit and the same ought to have been considered by the learned Principal Judge, Family Court, Narnaul before adjudicating the interim maintenance or even the quantum of interim maintenance. He also submitted that once the petitioner has no source of income then he was not bound to provide any interim maintenance to the respondents and therefore, the aforesaid impugned order vide which interim maintenance has been granted to the respondents is liable to be set aside.



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

5. The present revision petition has been filed challenging the order passed by the learned Principal Judge, Family Court, Narnaul, vide which interim maintenance has been granted to respondent No.2-wife to the tune of Rs.8,000/- per month and to the tune of Rs.7,000/- per month to respondent No.1-minor son, who is of the age of 5 years, totalling Rs.15,000/- per month. In terms of the judgment passed by Hon'ble Supreme Court in ***Rajnish's case (Supra)***, both the parties filed their respective affidavits and thereafter, the aforesaid impugned order was passed by the learned Principal Judge, Family Court, Narnaul, vide which interim maintenance as aforesaid has been granted to the respondents. A perusal of the impugned order would show that so far as the factum of marriage between the petitioner and respondent No.2 is concerned, the same is not in dispute and it is also not in dispute that respondent No.1-minor son was born out of the said wedlock, who is of the age of 5 years and is in the care and custody of respondent No.2-wife. The petitioner-husband is stated to be B.Tech. and a qualified Engineer and as per respondent No.2-wife, the petitioner is working in a Multinational Company and earning more than Rs.1,00,000/- per month but has been shown to be unemployed by him in terms of his affidavit. Learned Principal Judge, Family Court, Narnaul only for the purpose of considering the application for grant of interim maintenance has looked into the aspect of the income of the petitioner-husband in depth and after lifting the veil has come to the conclusion that even if the petitioner has declared himself to be unemployed then for the purpose of considering the quantum of interim maintenance, his income has been presumed to be Rs.35,000/- to Rs.40,000/- per month.



6. In para No.10 and the later paras of the impugned order, the learned Principal Judge, Family Court, Narnaul considered very important aspects with regard to the factum of income of the petitioner. In para No.13 of the impugned order, learned Principal Judge, Family Court, Narnaul considered the aforesaid aspect and the contention of the learned counsel for respondent No.2-wife in which it was observed that it is not in dispute that the petitioner-husband was highly qualified having qualification of B.Tech., although shown to be unemployed but a perusal of the affidavit declaring assets and liabilities filed by him would show that he was maintaining as many as five bank accounts in which transactions are being carried out on regular basis and has also purchased four insurance policies of which the combined premium was in excess of Rs.75,000/- and his total loans and liabilities were to the tune of Rs.33,35,568/- and he was paying EMIs to the tune of Rs.1,38,645/- per month. Learned Principal Judge, Family Court, Narnaul considered the aspect that if EMIs of the petitioner-husband are to the tune of Rs.1,38,645/- per month and he is maintaining five bank accounts and four insurance policies, then what could be the source of income which he has not disclosed and therefore, only for the purpose of considering the grant of interim maintenance came to the conclusion that even otherwise also the petitioner is an able-bodied man having technical skills and even a casual labourer would earn an amount of Rs.15,000/- to Rs.16,000/- per month as wages and therefore, for the purpose of grant of interim maintenance the income of the petitioner-husband was presumed to be Rs.35,000/- to Rs.40,000/- per month since the main petition under Section 125 Cr.P.C. was pending and the *lis* of the present application was only for the grant of interim maintenance.



7. During the course of arguments, a specific query was raised to the learned counsel for the petitioner as to how the petitioner was paying the aforesaid huge amount of EMIs of Rs.1,38,645/- per month and is having an outstanding loan of Rs.33,35,568/-, maintaining five bank accounts and four insurance policies and disclosing in his affidavit that he has got no source of income, to which he submitted that the petitioner had been paying the aforesaid EMIs through his different credit cards. The aforesaid argument raised by the learned counsel for the petitioner is not only unsustainable but it is superficial and artificial. It is not possible for a long period of time that a person can pay EMIs only by rotation of credit cards and therefore, the argument which has been raised by the learned counsel for the petitioner today before this Court is outrightly rejected.

8. On the other hand, it has come in the impugned order that respondent No.2-wife, who is also having the care and custody of the minor son of the age of 5 years has got no source of income, although it is the case of the learned counsel for the petitioner-husband that the respondent No.2-wife has also not disclosed her true income in the affidavit. Be that as it may, the impugned order is only for the grant of interim maintenance and the main petition under Section 125 Cr.P.C. is still pending. The petitioner-husband would always have a right to lead any kind of evidence and in case any false affidavit is filed by respondent No.2-wife then adequate remedies are available in accordance with law but that would not mean that on this ground the petitioner would assail the aforesaid impugned order vide which only interim maintenance has been granted to the respondents. The purpose of grant of interim maintenance is only that till the main petition under Section 125 Cr.P.C. is decided, as an interim measure some amount is paid



to the respondents for the interregnum period and the expression '*interim*' suggests that it is not final.

9. This Court would therefore consider the present case in two aspects. Firstly, as to whether the aforesaid interim maintenance or the quantum of interim maintenance was erroneous or in accordance with law and secondly, as to whether filing of a revision petition against an interim order only would be amounting to perpetuating litigation by the petitioner or not. So far as the first aspect is concerned, the aforesaid totality and facts and circumstances as discussed above would show that when it has been shown by respondent No.2-wife, who is having the care and custody of the minor son of the age of 5 years that she was having no source of income, then it cannot be said that the order of interim maintenance is erroneous because the main petition under Section 125 Cr.P.C. is yet to be decided. On the other hand, the figures which have come up with regard to the petitioner-husband clearly suggest that the petitioner should have been *prima facie* earning handsome money, although the same can be adjudicated at the time of deciding the main petition under Section 125 Cr.P.C. Paying of EMIs of Rs.1,38,645/- per month, sustaining four insurance policies and maintaining five bank accounts having sufficient transactions itself would raise not only a suspicion but would also only for the purpose of considering the grant of interim maintenance raise presumption that the petitioner would be earning handsome amount of money. This Court is not making any observation on the final income of the petitioner-husband but it is only for a limited purpose of considering as to whether the impugned order, vide which interim maintenance has been granted to the respondents is erroneous or not. Therefore, by no stretch of imagination it can be said that the aforesaid



impugned order is erroneous because the interim maintenance granted to the respondents is only Rs.15,000/- per month i.e. Rs.8,000/- per month to respondent No.2-wife and Rs.7,000/- per month to respondent No.1-minor son, who is of the age of 5 years and therefore, it cannot be said that the impugned order was erroneous or perverse.

10. So far as the second aspect is concerned, considering the totality and facts and circumstances of the figures which have come up on the record pertaining to the petitioner, his admission of payment of EMIs of Rs.1,38,645/- per month, sustaining four insurance policies and maintaining five bank accounts having sufficient transactions and the fact that nothing has come on the record till date before the learned Family Court, Narnaul regarding the income of respondent No.2-wife, who is having the care and custody of minor son of the age of 5 years, this Court is of the considered view that filing of the present revision petition is nothing but ill-advised, vexatious and with a motive to perpetuate litigation.

11. Consequently, the present revision petition is dismissed with Rs.25,000/- as costs. The petitioner is hereby directed to deposit the aforesaid costs before the Court of learned Principal Judge, Family Court, Narnaul, within a period of three months from today. On his depositing the aforesaid costs, the learned Family Court, Narnaul shall transmit the same to respondent No.2-wife forthwith. The learned Family Court shall 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 Family Court 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



then learned Family Court shall send a report to this Court and on receipt of the same, the Registry of this Court shall list this case before this Court.

12. Miscellaneous applications, if any, shall also stand disposed of since the main case has been dismissed.

25.03.2025

(JASGURPREET SINGH PURI)

rakesh

JUDGE

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