



CRR(F)-1853-2023

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

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CRR(F)-1853-2023

Date of decision: 28.10.2024

Sunny Malhotra

...Petitioner

V/s

Saloni

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Angel Walia, Advocate for the petitioner.

Mr. Sharad Mehra, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been preferred against the order dated 16.11.2023 passed by the Additional Principal Judge, Family Court, Amritsar (hereinafter to be referred as the 'concerned Family Court') praying for modification/reduction of the said order. Vide the impugned order; the respondent-wife (herein) has been awarded interim maintenance at the rate of Rs.7,000/- per month to be paid by the petitioner-husband (herein) from the date of the application alongwith litigation expenses of Rs.3300/-. The respondent (herein) had filed a petition, under Section 125 of Cr.P.C., 1973 before the Family Court, stating that she is the wife of the petitioner (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 Family Court, while assessing the quantum of interim maintenance, has ignored from consideration the fact that the petitioner has previously been earning Rs.28,000/- per month from his business of cold drink. Referring to



Income Tax Return for the Assessment year 2023-2024 (which is appended as Annexure P-10 with the instant petition), learned counsel submits that due to significant losses during the said year, the monthly income of the petitioner-husband has been reduced to Rs.13,500/-. According to learned counsel, the learned Family Court has noted that it is highly improbable for someone with an monthly income of Rs.7,000/- per month to manage an EMI of Rs.18,472/-. However, the Family Court has not fully considered the supporting facts and documents showing that the petitioner-husband is, in fact, paying this EMI by regularly borrowing the funds from his close friends and family. Learned counsel has further iterated that the Family Court has overlooked the fact that the respondent-wife is a well-educated lady with a BA and DCA, currently employed as a school teacher. She also holds a PMKVY certificate dated 26.03.2021, certifying her qualification for the role of hairdresser. Learned counsel asserts that the findings of the learned Family Court are based on misrepresentation of facts and the same should be set-aside. It is respectfully submitted that the respondent's deliberate attempt to conceal her true financial status constitutes a gross abuse of the process of the Court. 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 respondent. Thus, it has been prayed that the impugned order is patently illegal; suffers from material infirmities and the quantum of maintenance be reduced from Rs.7,000/- per month to Rs.3,000/- per month.

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 moveable or immoveable property. 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 ***Rajnish 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.*

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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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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;

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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 maintenance at the rate of Rs.7,000/- per month from the date of application. While going through the impugned order, it transpires that the respondent-wife (herein) has consistently maintained throughout the proceedings that she has no source of income to maintain herself and is financially dependent on her parents. The respondent-husband (herein), however, claims that the respondent-wife is employed and possesses a graduate degree, alongwith a certification of a hairdresser by submitting a Skill India certificate indicating that she had passed an assessment for the role of hairdresser. But neither the respondent has provided any details regarding her place of employment nor there is any evidence on record confirming that the respondent-wife is employed anywhere. Conversely, the petitioner-husband (herein) is alleged to be engaged in a business dealing with cold drinks and property, with an estimated monthly income of Rs.1.00 lac. Furthermore, the petitioner-husband has not denied trading in cold drinks but claims that his income has been dropped from Rs.28,000/- per month to Rs.13,500/- during the assessment year 2023-2024 and further reduced to Rs.7,000/- following the theft of his e-loader on 10.10.2023. He has submitted his 2023-24 income tax return before the Family Court showing annual income of Rs.1,62,870/- alongwith bank statement reflecting an EMI payment of Rs.18,472/-. The Family Court finds it unlikely that someone earning Rs.13,500/- or Rs.7,000/- monthly could sustain an EMI of this amount. Moreover, the petitioner-husband has not provided his income tax returns for the three years preceding the petition and only recently submitted a return indicating a



modest income of Rs.1,62,870/- which appears to be modest in view of his ongoing EMI obligations.

Considering the likely income of the petitioner-husband from his soft drinks business and all other relevant circumstances, the Family Court granted interim maintenance at the rate of Rs.7,000/- per month. Moreover, the petitioner-husband (herein) had failed to provide any convincing evidence before this Court to show that the respondent-wife (herein) has any steady source of income or has any adequate means of financial support for her survival. In the considered opinion of this Court, the impugned order is merely an interim measure and to alleviate the immediate financial pressure being faced by the respondent-wife. 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 only be ascertained after the parties adduce evidence. It is also apparent 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.7,000/- 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 28, 2024
Ajay

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