



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

**CRR(F)-447-2025 (O&M)
Date of Decision:-07.04.2025**

Pardeep Periwal

.....Petitioner

Versus

Ruchi Periwal and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Karan Grover, Advocate for the petitioner.
(Through V.C.).

JASGURPREET SINGH PURI J.(Oral)

CRM-13008-2025

The present application has been filed under Section 5 of the Limitation Act for condonation of delay of 43 days in filing of the present revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 43 days in filing the present petition, is hereby condoned.

Application stands disposed of.

Main case

1. The present is a revision petition filed by the petitioner-husband against his wife-respondent No.1 and his minor son-respondent No.2 who is of the age of 10 years, challenging the order dated 13.11.2024 passed by



learned Additional Principal Judge, Family Court, Faridabad, whereby interim maintenance to the tune of Rs.10,000/- per month to respondent No.1-wife and Rs.20,000/- per month to respondent No.2-minor son has been granted.

2. Learned counsel appearing on behalf of the petitioner through V.C. while giving the brief facts of the case submitted that it is a case where the petitioner-husband and respondent No.1-wife got married to each other on 13.07.2013 at Jaisalmer, Rajasthan. Thereafter one male child was born out of the wedlock on 15.04.2014 who is respondent No.2 in the present petition and who is now living with his mother who is respondent No.1 in the present case. Matrimonial dispute arose after the marriage and respondent-wife made various allegations against the petitioner including demand of dowry etc. He further submitted that in November 2021, the petitioner filed a divorce petition under Section 13 of the Hindu Marriage Act, which is still pending and as a counter-blast of the same, a petition for grant of maintenance along with an application for grant of interim maintenance was filed by the respondent-wife.

3. He further submitted that both the petitioner (husband) and respondent No.1 (wife) furnished their respective affidavits regarding the declaration of assets and liabilities, in accordance with the judgment of Hon'ble Supreme Court in ***Rajnish v. Neha, 2021 (2) SCC 324***. The petitioner also filed a reply to the petition for the grant of maintenance and interim maintenance. He submitted that in his reply to the petition filed before learned Additional Principal Judge, Family Court, Faridabad, he had stated in para No.24 that he has an income of Rs. 90,000/- per month and



this reply has also been attached with the present petition vide Annexure P-10 dated 08.01.2023. He further stated that in April 2023 the petitioner left his job and is now unemployed and the fact regarding his unemployment was so incorporated in the affidavit of declaration of assets and liabilities and the petitioner was unemployed and was not earning anything at the time the impugned order regarding interim maintenance to respondents was passed and therefore the impugned order is erroneous. Regarding the income of the wife, he submitted that even as per her affidavit of declaration of assets and liabilities which is also an admitted position, she is working as a teacher in a private school and she is earning an amount of Rs.18,000/-. Even as per her affidavit and therefore there was no occasion for the learned Additional Principal Judge, Family Court, Faridabad, to have awarded a maintenance of Rs.10,000/-per month to respondent No.1-wife once respondent-wife is already working although as a teacher in a private school and is earning Rs.18,000/- per month.

4. He submitted that so far as the interim maintenance which has been granted to respondent No.2-minor son of the age of 10 years, is concerned, although the minor son is in the custody of respondent No.1-wife but the petitioner wishes to take the custody of the child and also to maintain him after taking his custody and he can be a better parent for upbringing of the minor child and on that ground as well, the interim maintenance granted to respondent No.2-minor child was erroneous and not in accordance with law. He also submitted that the petitioner has various expenditures to meet including taking care of his father and repaying some of his loans. Although his father is a retired person and



receiving pension but due to other expenditures of the petitioner, he cannot be directed to pay any interim maintenance to respondents, especially in view of the fact that now he is unemployed and therefore prayed for the setting aside the order in *toto* which has been passed by learned Addl. Principal Judge, Family Court, Faridabad.

5. I have heard the learned counsel for the petitioner who has appeared through V.C.

6. Some of the facts of the present case are not disputed by learned counsel for the petitioner, such as the marriage between the petitioner and respondent No. 1; respondent No. 2 is the male child born out of the wedlock of the petitioner and respondent No. 1 and the male child is in the care and custody of respondent No. 1 (wife). The respondent No.2 being a child of the age of 10 years must be going to a school for getting education. The learned counsel for the petitioner has disputed his liability towards both respondent No.1 and for respondent No.2-child.

7. Both the petitioner and respondent No.1 had filed their respective affidavits pertaining to declaration of assets and liabilities by mentioning their income and expenditure etc. which have also been attached alongwith the present petition. As per the reply which was filed by the petitioner before the Family Court to the petition under Section 125 Cr.P.C. which is still pending, he vide Annexure P-10 in para No.24, admitted that his income is Rs.90,000/- per month although the aforesaid reply was filed on 08.01.2023 but as per the learned counsel for the petitioner thereafter he left the job and he is unemployed w.e.f. April 2023 and this is the reason why he mentioned in the affidavit that he has no income. Learned Addl.



Principal Judge, Family Court, Faridabad, took into consideration the fact that the petitioner was earning Rs.90,000/- per month, as stated in the written statement and also considered the fact that petitioner is bound to maintain his wife. This Court would therefore consider the present case from both the angles of liabilities towards his wife and liabilities towards his minor child. First of all, taking into account the liabilities of the petitioner towards his minor child, even as a measure of interim maintenance, learned Addl. Principal Judge, Family Court, Faridabad, has fixed an amount of Rs. 20,000/- per month for the minor child, who is 10 years old. The income of the mother of the child, i.e., respondent No. 1, is stated to be Rs. 18,000/- per month. Although the child is a minor, he is growing up and, obviously, would be going to school and a lot of expenditures are to be incurred on him. A perusal of the affidavit filed by the respondent No.1-wife would show that under various heads expenditures for the child have been mentioned including his maintenance, medical expenses, clothing, education, food and other expenses which exceed Rs.20,000/- per month. So far as the liability of the petitioner towards the minor son, who is in the care and custody of respondent No. 1 (wife), is concerned, the petitioner is not only under the legal obligation under Section 125 of the Cr.P.C. to maintain the minor child but he also has moral, social, and economic responsibilities towards his own child, who is 10 years old. So far as the quantum of maintenance of an amount of Rs.20,000/- towards the child especially when he is of the age of 10 years is concerned, the same cannot be said to be excessive or on the higher side. The child and the wife are staying in Faridabad, which is a developed town



of India and for the purpose of taking care of the child including his food, clothing, education and various other expenses, this court is of the considered view that the aforesaid amount of Rs.20,000/- by any stretch of imagination cannot be said to be on the higher side and therefore the aforesaid amount of Rs.20,000/-per month as an interim maintenance granted by learned Family Court, is perfectly justified and in accordance with law.

8. So far as the effect of the wife working on the quantum of maintenance for the child is concerned, it has come on record that the wife of the petitioner, who is respondent No. 1, is a teacher in a private school and earns Rs. 18,000/- per month. Therefore, it cannot be said that the aforesaid meager income of respondent No. 1 can have any impact on the quantum of maintenance fixed for the child, as the income of the wife is not on the higher side

9. So far as the grant of interim maintenance to respondent No.1 to the tune of Rs.10,000/- per month is concerned, it is a case of the counsel for the petitioner himself that the petitioner was working in a company and was earning Rs.90,000/- per month but he worked only till April 2023. As per learned counsel for the petitioner, he is unemployed as of today. On the other hand, the wife is stated to be working as a teacher in a private school and earning Rs.18000/- per month and also taking care of the minor child. In her affidavit, she has also stated that expenditures incurred by her is from Rs.35,000/- to Rs.40,000/- per month. A married lady living in the developed city of Faridabad, having care of a child and considering the status of both the parties, cannot be said to be able to make both ends meet



with an amount of Rs. 18,000/- per month. The price rise, other inflationary tendencies and needs of a woman are well known. It is not a case of the petitioner that he never earned money and had no source of income but it is a case of the petitioner himself that he was earning a handsome amount of Rs.90,000/- per month even as per his reply which is an admitted position although till April 2023 and thereafter as per the petitioner, he remained unemployed till date.

10. Hon'ble Supreme Court in ***Anju Garg & Anr. V. Deepak Kumar Garg, 2022 SCC Online SC 1314.***, dealt with this issue and held that if a husband is an able-bodied man and even if he is not having any source of income, still he is bound to maintain his wife and minor children. The relevant portion of the aforesaid judgment in the case of ***Anju Garg's (supra)*** is reproduced as under:-

10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under [Section 125](#) of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In [Chaturbhuj vs, Sita Bai](#)², it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, [Section 125 Cr.P.C.](#) is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of [Article 15\(3\)](#),



reinforced by [Article 39](#) of the Constitution of India

11. The mere fact that the petitioner who is the husband and father is now unemployed for last about two years although being very well qualified and had been earning admittedly a handsome income of Rs.90,000/- per month till April 2023, cannot become a ground for denial of maintenance to the wife notwithstanding the fact that the wife is earning a meagre amount of Rs.18,000/- per month while working as a teacher in a private school.

12. When the wife is neglected by the husband, in order to sustain herself and make both ends meet, she has to work somewhere to eat food and feed the child. Therefore, such an income of Rs. 18,000/- per month of the wife is no embargo or impediment for learned Family Court to award interim maintenance of just Rs.10,000/- per month.

13. During the course of arguments, learned counsel for the petitioner also argued that the respondent-wife is involved in adultery, and allegations were also made regarding the same when he filed a petition for the grant of divorce. On a query being asked to learned counsel for the petitioner as to whether there was any finding of fact by any court of law with regard to the allegations of adultery, he submitted that no such finding has been returned by any court of law till date. It is settled law that mere allegations of adultery against the wife cannot, by itself, become a ground for denial of maintenance, particularly interim maintenance, to the wife. The purpose, objective, and ultimate rationale for the grant of maintenance is that during the interregnum period, when the petition under Section 125 Cr.P.C. is pending, based on the affidavits of declaration of assets and



liabilities, an interim maintenance is fixed and thereafter, when the entire evidence is adduced by the respective parties then an order/final judgment in the petition under Section 125 Cr.P.C. is adjudicated by the competent court of law.

14. In view of the aforesaid facts and circumstances, this Court is of the considered view that the present petition, especially being only a revision petition, there is very little scope for interference unless any perversity or illegality can be shown. On the basis of the aforesaid impugned order and submissions made by learned counsel for the petitioner, this Court finds no illegality or perversity in the order passed by learned Additional Principal Judge, Family Court, Faridabad. Therefore, the present petition is absolutely devoid of merit, particularly in view of the fact that the challenge has only been laid to an order of grant of interim maintenance.

16. Consequently, the present revision petition is hereby dismissed with costs of Rs.10,000/-. The petitioner is hereby directed to deposit the aforesaid costs before the Court of learned Addl. Principal Judge, Family Court, Faridabad, within a period of three months from today. On his depositing the aforesaid costs, the learned Family Court, Faridabad, shall deposit the aforesaid amount, in the shape of FD to respondent No.2-child in a nationalized bank. 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.

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

(JASGURPREET SINGH PURI)
JUDGE

07.04.2025

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No