

HIGH COURT OF MADHYA PRADESH: JABALPUR

No. B/1641 /
III-2-3/74 (125 of Cr.P.C.) Jabalpur, dated 3./03/2023

To,

1. The Principal District and Sessions Judges,
All in the State.
2. The Principal Judges, Family Courts,
All in the State.

Subject:- **Compliance of Directions of Hon'ble Supreme Court, in Rajnesh Vs. Neha and Another reported in (2021) 2 SCC 324.**

Reference:- Resolution of Hon'ble Full Court dated 17.02.2023.

Sir,

Please find enclosed a copy of the Circular alongwith Proforma of Affidavits to be filed by both the parties in maintenance proceedings.

As directed, I request you to bring the same into the knowledge of all the Judicial Officers under your kind control for information, compliance and necessary action.

Encl:- as above.


(RUPAM VEDI)
REGISTRAR (Works & Infrastructure)

Endt. No. B/1642 /
III-2-3/74 (125 of Cr.P.C.) Jabalpur, dated 5./03/2023

Copy forwarded to Member Secretary, SCMS for information and appropriate action.


(RUPAM VEDI)
REGISTRAR (Works & Infrastructure)

CIRCULAR

Whereas, Hon'ble the Supreme Court in Rajnesh Vs Neha (Criminal Appeal No. 730 of 2020 Slp (Crl.) No. 9503 of 2018 decided on 04/11/2020) reported in (2021) 2 SCC 324 has given various directions, including direction that the Affidavit of Disclosure of Assets and Liabilities shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court/District Court/Magistrates Court.

In order to implement the directions given by Hon'ble the Supreme Court of India, the High Court of Madhya Pradesh hereby issues following directions :

1. It is directed that in all maintenance proceedings, including application for maintenance under the provisions of any of the following enactments, and in all pending maintenance proceedings, before the concerned Family Court/District Court/Magistrates Court, both the parties at very threshold shall file the affidavit of disclosure of assets and liabilities in the prescribed format as per Annexure-I and II, as may be applicable, :

- (i) The Code of Criminal Procedure, 1973.
- (ii) The Protection of Women from Domestic Violence Act, 2005.
- (iii) The Hindu Marriage Act, 1955.
- (iv) The Hindu Adoptions and Maintenance Act, 1956.
- (v) The Special Marriage Act, 1954.
- (vi) The Indian Divorce Act, 1869.
- (vii) The Guardians and Wards Act, 1890.
- (viii) The Hindu Minority and Guardianship Act, 1956.

2. The applicant claiming maintenance shall file a concise application accompanied with the affidavit of disclosure of assets and liabilities in the prescribed format as per Annexure-I and II, as may be

applicable.

3. The non-applicant must submit the reply along with the affidavit of disclosure in the prescribed format as per Annexure-I and II, as may be applicable within a maximum period of four weeks.

4. In case of failure to file such an affidavit of disclosure of assets and liabilities within the prescribed time, the Court may proceed to decide the application for maintenance on the available record.

5. Format of affidavit(s), may be modified by the concerned Court if the exigencies of the case may require the same.

6. If during the course of proceedings there is a change in the financial status of any party, or there is a change of any relevant circumstances, or if some new information comes to light, the party may submit an amended/supplementary affidavit.

7. All the courts dealing with maintenance proceedings are directed to comply with the final directions (Annexure-III) given by Hon'ble the Supreme Court of India in Rajnesh Vs Neha [Criminal Appeal No.730 of 2020, Slp (Crl.) No. 9503 of 2018, Decided on 04/11/2020].

Case No CNR No.

.....

.....

Vs

.....

.....

Affidavit of Assets and Liabilities for Non-Agrarian Deponents

I....., Son/Daughter/Wife of.....
....., aged aboutyears, R/o
.....do hereby
solemnly affirm and declare as under:

A. Personal Information

1. Name:
2. Age/Sex:
3. Qualifications (Educational and Professional):
4. Whether the Applicant is staying in the matrimonial house / parental home / separate residence. Please provide the current residential address of matrimonial home or place of residence and details of ownership of residence, if owned by otherfamily member.
5. Date of marriage:
6. Date of separation:
7. General monthly expenses of the Applicant (rent, household expenses, medical bills, transportation, etc.):

B. Details of Legal Proceedings and Maintenance being paid

1. Particulars of any ongoing or past legal proceedings with respect to maintenance or child support between the Applicant and Non-Applicant.
2. Whether any maintenance has been awarded in any proceeding arising under the D.V.Act, Cr.P.C., HMA, HAMA, etc.? If yes, provide details of the quantum of maintenance awarded in the proceedings.
3. If so, provide particulars thereof, alongwith a copy of the Order/s passed.
4. Whether the Order of maintenance passed in earlier proceedings has been compliedwith. If not, arrears of maintenance.
5. Whether any voluntary contribution towards maintenance has been made/ will be made in the future? If yes, provide details of the same.

C. Details of dependant family members

1. Details of Dependant family members, if any.
 - a. Relationship with dependants:
 - b. Age and sex of dependant/s:
2. Disclose if any independent source/s of income of the dependants, including interest income, assets, pension, tax liability on any such income and any other relevant details.
3. The approximate expenses incurred on account of the dependant.

D. Medical details if any, of the Deponent and/or dependant family members

1. Whether either party or child /children is suffering from any physical / mental disability, or any other serious ailment. If yes, produce medical records.
2. Whether any dependant family member has serious disability, requiring continuous medical expenditure. If yes, produce disability certificate and approximate medicalexpenditure incurred on such medical treatment.
3. Whether either party or child/children or any other dependent family member is suffering from life-threatening diseases, which would entail expensive and regular medical expenditure? If yes, provide details of the

same along with summary of previous details of hospitalisation/medical expenses incurred.

E. Details of Children of the parties

1. Number of children from the existing marriage / marital relationship/ previous marriage
2. Name and age of children
3. Details of the parent who has the custody of the children.
4. Expenditure for maintenance of dependant children.
 - a. Towards food, clothing and medical expenses
 - b. Towards expenses for education, and a summary of general expenses
 - c. Towards expenses, if any, of any extra educational, vocational or professional /educational course, specialised training or special skills programme of dependent children.
 - d. Details of any loan, mortgage, charge incurred or instalment plan (being paid or payable), if any, on account of any educational expenses of children.
5. Whether any voluntary contribution by either of the parties is being made towards these educational expenses. If yes, provide details of the same. Also provide an estimate of any additional contribution that may be required.
6. Whether any financial support is being provided by a third party for the educational expenses of the children?

F. Details of Income of the Deponent

1. Name of employer:
2. Designation:
3. Monthly income:
4. If engaged in Government Service, furnish latest Salary Certificates or current Pay Slips or proof of deposit in bank account, if being remitted directly by employer.
5. If engaged in the private sector, furnish a certificate provided by the

employer stating the designation and gross monthly income of such person, and Form 16 for the relevant period of current employment.

6. If any perquisites, benefits, house rent allowance, travel allowance, dearness allowance or any other service benefit is being provided by the employer during the course of current employment.
7. Whether assessed to income tax?
If yes, submit copies of the Income Tax Returns for the periods given below :
 - (i) One year prior to marriage
 - (ii) One year prior to separation
 - (iii) At the time when the Application for maintenance is filed
8. Income from other sources, such as rent, interest, shares, dividends, capital gains, FDRs, Post office deposits, mutual funds, stocks, debentures, agriculture, or business, if any, alongwith TDS in respect of any such income.
9. Furnish copies of Bank Statement of all accounts for the last 3 years.

G. Assets (movable and immovable) owned by the Deponent

1. Self-acquired property, if any:
2. Properties jointly owned by the parties after marriage:
3. Share in any ancestral property:
4. Other joint properties of the parties (accounts/ investments/ FDR/ mutual funds, stocks, debentures etc.), their value and status of possession:
5. Status of possession of immovable property and details of rent, if leased:
6. Details of loans taken or given by the Deponent
7. Brief description of jewellery and ornaments of parties acquired during /aftermarriage.
8. Details of transfer deeds or transactions of alienation of properties previously owned by the applicant, executed during the subsistence of the marriage. Also provide brief reasons for such sale or transaction, if any.

H. Details of Liabilities of the Deponent

1. Loans, liabilities, mortgage, or charge outstanding against the Deponent, if any.
2. Details of any EMIs being paid.
3. Date and purpose of taking loan or incurring any such liability:
4. Actual amount borrowed, if any, and the amount paid upto date of filing the Affidavit:
5. Any other information which would be relevant to describe current liabilities of the Deponent.

I. Self-employed persons / Professionals / Business Persons / Entrepreneur

1. Brief description of nature of business/profession/vocation/self-employed/work activity.
2. Whether the business/profession/ self-employment is carried on as an individual, sole proprietorship concern, partnership concern, LLP, company or association of persons, HUF, joint family business or any other form? Give particulars of Applicant's share in the partnership/business/ professional association/self-employment. In case of partnership, specify the share in the profit/losses of the partnership.
3. Net Income from the business/profession/ partnership/self-employment.
4. Business/partnership/self-employment liabilities, if any, in case of such activity.
5. In case of business of company, provide brief details of last audited balance sheet to indicate profit and loss of the company in which such party is in business in the company.
6. In case of a partnership firm, provide details of the filings of the last Income Tax Return of partnership.
7. In case of self-employed individual, provide the filings of the last Income Tax Return from any such professional/business/vocational activity.

J. Information provided by the Deponent with respect to the income, assets and liabilities of the other Spouse

1. Educational and professional qualifications of the other spouse:
2. Whether spouse is earning? If so, give particulars of the occupation and income of the spouse.
3. If not, whether he/she is staying in his/her own accommodation, or in a rented accommodation or in accommodation provided by employer/business/partnership?
4. Particulars of assets and liabilities of spouse as known to the deponent, alongwith any supporting documents.

K. Details of Applicant or the other Spouse, in case parties are Non-Resident Indians, Overseas Citizens of India, Foreign Nationals or Persons living abroad outside India.

1. Details of Citizenship, Nationality and current place of residence, if the Applicant or other spouse is residing abroad outside India, temporarily or permanently.
2. Details of current employment and latest income in foreign currency of such applicant/spouse, duly supported by relevant documentation of employment and income from such foreign employer or overseas institution by way of employment letter or testimonial from foreign employer or overseas institution or latest relevant bank statement.
3. Details of household and other expenditure of such applicant/spouse in foreign jurisdiction.
4. Details of tax liability of applicant/other spouse in foreign jurisdiction.
5. Details of income of applicant/other spouse from other sources in India/foreign jurisdiction.
6. Details of expenses incurred or contribution made on account of spousal maintenance, child support or any other educational expenses, medical treatment of spouse or children.
7. Any other relevant detail of expenses or liabilities, not covered under any of the above headings and any other liabilities to any other dependant family members in India or abroad.

Declaration

1. I declare that I have made a full and accurate disclosure of my income, expenditure, assets and liabilities from all sources. I further declare that I have no assets, income, expenditure and liabilities other than as stated in this affidavit.
2. I undertake to inform this Court immediately with respect to any material change in my employment, assets, income, expenses or any other information included in this affidavit.
3. I understand that any false statement in this affidavit, apart from being contempt of Court, may also constitute an offence under Section 199 read with Sections 191 and 193 of the Indian Penal Code punishable with imprisonment upto seven years and fine, and Section 209 of Indian Penal Code punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193, 199 and 209 of the Indian Penal Code, 1860.

DEPONENT

Verification

Verified at.....onday of that the contents of the above affidavit are true to my personal knowledge, no part of it is false and nothing material has been concealed therefrom, whereas the contents of the above affidavit relating to the assets, income and expenditure of my spouse are based on information believed to be true on the basis of record. I further verify that the copies of the documents filed along with the affidavit are the copies of the originals.

DEPONENT

Case No CNR No.

.....

.....

Vs

.....

.....

Details for Affidavit for Agrarian Deponents (Krishi)

1. Total extent of the rural land/s owned, or the specific share holding in the same land:
2. Jamabandis / Mutations to show ownership
3. Location of the land owned by the party.
4. Nature of land : whether wet land or dry land.
5. Whether such land is agricultural land or non-agricultural land:
6. Nature of agriculture / horticulture :
7. Nature of crops cultivated during the year :
8. If rural land is not cultivable, whether the same is being used for business, leasing or other activity :
9. Income generated during the past 3 years from the land.
10. Whether any land is taken on lease /battai (or any other term used for a lease in the local area of the concerned jurisdiction where rural /agricultural land is located.)
11. (a) Whether owner of any livestock, such as buffaloes, cows, goats, cattle, poultry, fishery, bee keeping, piggery etc., the number thereof and Income generated therefrom?

(b) Whether engaged in dairy farming, poultry, fish farming or any other livestock activity.

12. Loans, if any obtained against the land. Furnish details of such loans.
13. Any other sources of income :
14. Liabilities, if any
15. Any other relevant information :

Declaration

1. I declare that I have made a full and accurate disclosure of my income, expenditure, assets and liabilities from all sources. I further declare that I have no assets, income, expenditure and liabilities other than as stated in this affidavit.
2. I undertake to inform this Court immediately with respect to any material change in my employment, assets, income, expenses or any other information included in this affidavit.
3. I understand that any false statement in this affidavit, apart from being contempt of Court, may constitute an offence under Section 199 read with Sections 191 and 193 of the Indian Penal Code punishable with imprisonment upto seven years and fine, and Section 209 of Indian Penal Code punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193, 199, and 209 of the Indian Penal Code, 1860.

DEPONENT

Verification

Verifiedon day of that the contents of the above affidavit are true to my personal knowledge, no part of it is false and nothing material has been concealed therefrom. I further verify that the copies of the documents filed along with the affidavit are the copies of the originals.

DEPONENT

Final Directions

In view of the foregoing discussion as contained in Part B - I to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India :

(a) Issue of overlapping jurisdiction

To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that :

- (i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;
- (ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;
- (iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding.

(b) Payment of Interim Maintenance

The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrates Court, as the case may be, throughout the country.

(c) Criteria for determining the quantum of maintenance

For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B - III of the judgment.

The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.

(d) Date from which maintenance is to be awarded

We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B – IV above.

(e) Enforcement / Execution of orders of maintenance

For enforcement / execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C., as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC, more particularly Sections 51, 55, 58, 60 r.w. Order XXI.

Before we part with this judgment, we note our appreciation of the valuable assistance provided by the Ld. *Amici Curiae* Ms. Anitha Shenoy and Mr. Gopal Sankaranarayanan, Senior Advocates in this case.

A copy of this judgment be communicated by the Secretary General of this Court, to the Registrars of all High Courts, who would in turn circulate it to all the District Courts in the States. It shall be displayed on the website of all District Courts / Family Courts / Courts of Judicial Magistrate for awareness and implementation.

