

Court No. - 39

Case :- FIRST APPEAL DEFECTIVE No. - 434 of 2023

Appellant :- Dhaniram

Respondent :- Smt. Sangeeta Devi

Counsel for Appellant :- Manish Kumar Jain

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Sri Manish Kumar Jain, learned counsel for the appellant and perused the record.

2. Besides the delay of four days in filing the appeal, there is no error in the order of the learned court below in awarding interim maintenance under Section 24 of the Hindu Marriage Act, 1955 at the rate of 2,000/- per month from the date of order dated 25.3.2022.

3. Thus there is no error in the order of the learned court below dated 31.7.2023 in rejecting the application filed by the appellant being Petition No. 1 of 2021/ Paper No. 12-C, seeking recall of that order dated 25.3.2022.

4. While, there is no illegality or infirmity in the order dated 25.3.2022 providing for interim maintenance at the rate of 2,000/- per month, it is a settled proposition of law that the earlier order dated 14.10.2021 providing for maintenance at the rate of Rs. 1,500/- per month passed under Section 125 Cr.P.C., though valid, may not be enforced with effect from March, 2022, subject to the appellant complying with the terms of the order dated 25.3.2023 without any default. This is also the dictum of a Co-ordinate Bench decision relied upon by learned counsel for the appellant being ***Pankaj Sharma Vs. Rajni Sharma (First Appeal No. 32 of 2017)*** decided on 18.1.2017.

5. Thus, the appeal is **disposed of** leaving it open to the appellant to comply with the order dated 25.3.2022 passed under Section 24 of the Hindu Marriage Act, 1955 and further leaving it open to the appellant to seek conciliation of his matrimonial discord before the learned court below disclosing that he is complying with the order dated 25.3.2022 from March, 2022.

6. Needless to add, subject to the order dated 25.3.2022 being fully complied with, no recoveries shall be made from the appellant from March, 2022 onwards pursuant to the order passed under Section 125 Cr.P.C. awarding lower interim maintenance at the rate of Rs. 1,500/-.

Order Date :- 28.11.2023

CS/-

(Shiv Shanker Prasad,J.) (S.D. Singh,J.)