

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

(225)

CR No.1525 of 2014 (O&M)

Decided on: April 27, 2015.

Raina Solanki

.... Petitioner

Versus

Ajay Singh Jakhar

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Sarabjeet Singh, Advocate, for
Mr. I.P.S. Kohli, Advocate, for the petitioner.

Mr. Vikrant Rana, Advocate, for the respondent.

M.M.S. BEDI, J (ORAL)

This is wife's revision petition challenging the order dated 09.01.2013 passed by District Judge, Family Court, Gurgaon dismissing her application under Section 24 of the Hindu Marriage Act in a divorce petition filed by the respondent-husband.

Perusal of the order dated 09.01.2013 indicates that after recording the statement of husband that his monthly income was Rs. 2 lacs per month though he gets work only for six months as Second Engineer in Merchant Navy and recording the statement of the petitioner wife that she was serving as Business Operations Professional in IBM India Pvt. Ltd and her monthly salary was of Rs.24,506/-, the District Judge, Family Court, Gurgaon opted to dismiss the application holding that it cannot be said that respondent wife has no independent income sufficient for her support and for necessary expenses for the proceedings in the case.

The approach of the learned District Judge, Family Court, Gurgaon appears to be unreasonable on the face of it. The respondent is admittedly employed in Merchant Navy earning a huge amount. Wife is entitled to maintenance or interim maintenance in accordance with the status of her husband and other circumstances. The casual approach of the learned District Judge, Family Court in dismissing the application under Section 24 of the Hindu Marriage Act without going into the earning capacity of the respondent and his standard of living cannot be upheld as the learned District Judge, Family Court seems to have decided the matter on the basis of mere statements.

The present revision petition is pending w.e.f. February, 2014. The husband-respondent present in the Court informs his counsel that at present he is doing some contract work though he is a professional engineer.

Taking into consideration the totality of the circumstances, I am of the opinion that the petitioner wife cannot be denied interim maintenance under Section 24 of the Hindu Marriage Act. The revision petition is allowed. Impugned order dated 09.01.2013 is set aside. The application of the petitioner-wife under Section 24 of the Hindu Marriage Act is allowed holding that she is entitled to a sum of Rs.20,000/- as maintenance pendente lite in order to maintain herself. However, since she is also capable of earning, it is ordered that she will be paid only Rs.10,000/- per month by the respondent-husband with effect from the date of her application besides a sum of Rs.40,000/- as litigation expenses. The said amount will be paid by the respondent-husband to the petitioner-wife before the trial Court within a period of one month.

The interim order passed staying the proceedings before the trial Court is vacated.

(M.M.S. BEDI)
JUDGE

April 27, 2015
harsha