

CR No.3291 of 2015 (O&M)
Date of decision:27.11.2015

Jastim ... Respondent

Parvinder Singh ... Respondent

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Mr. Sagar Aggarwal, Advocate
for the petitioner (in CR No.3668 of 2015).
for the respondent (in CR No.3291 of 2015).

This order of mine shall dispose of two revision petitions bearing Nos.3291 and 3668 of 2015, filed by the husband and wife. One for the reduction of the maintenance pendente lite expenses and another for enhancement.

Before advertng to the facts of the matter, Mr. Anil

Kshetarpal, Senior Advocate assisted by Mr. Maninder S. Saini, Advocate fairly stated that decree of divorce dated 24.07.2015 has been passed in favour of the wife and now dispute only revolves around for adjudication of the maintenance pendente lite expenses. In support of Civil Revision No.3291 of 2015, Mr. Anil Kshetarpal, Senior Advocate assisted by Mr. Maninder S. Saini, Advocate has raised the following submissions:-

In petition filed under Section 125 of the Code of Criminal Procedure, the trial Court, vide order dated 04.02.2012 (Annexure P-6) ordered interim maintenance @ ₹20,000/- per month from the date of the application and on the same date, in a petition filed under Domestic Violence Act, the Court below ordered maintenance charges @ ₹20,000/- per month and made a specific observation that any maintenance awarded in other proceedings shall be adjusted.

However, in a petition under Section 13, an application dated 21.11.2013 an application under Sections 24 and 26 of Hindu Marriage Act, was filed and in those proceedings, the Court below by taking into consideration the facts and circumstances and that maintenance had already been awarded to to the tune of ₹40,000/-, awarded another ₹10,000/- and in essence, assessed the maintenance pendente lite expenses as ₹50,000/- (i.e.20,000/- +20,000/- +10,000 =50,000). It is the aforementioned order which has been impugned in the present petition.

Mr. Sagar Aggarwal, learned counsel appearing on behalf of the petitioner-wife in CR No.3668 of 2015 submits wife does not

dispute the grant of decree of divorce, but however, submits that even compensation/maintenance awarded by the Court below under the Code of Criminal Procedure, as well as, under Domestic Violence Act, is to be taken only ₹20,000/-, still the wife is entitled to enhancement of maintenance as the husband is working as Chartered Accountant and in this regard filed CR No.3668 of 2015. He further submits that wife is not working anywhere and is only home maker and taking care of minor child Ishrat aged 08 years.

I have heard learned counsel for the parties and appraised the paper book.

Shorn of facts, noticed above and keeping in view the status of the parties, I am of the view that the opinion expressed by the Court below in a petition under Section 24 of Hindu Marriage Act, taking maintenance as ₹40,000/- is not correct. The plain and simple language of both the orders reveal that only ₹20,000/- has awarded to the wife.

Keeping in view the status of the parties, I am of the view that still the wife is entitled to maintenance to the tune of ₹40,000/- per month as by interim order of this Court, husband was directed to pay ₹30,000/- per month which as per the statement of Mr. Aggarwal, has not been paid.

Accordingly, the impugned orders in both revision petitions are hereby modified and shall be treated as maintenance pendente lite to the tune of ₹20,000/- per month, in essence, wife would be entitled to the maintenance pendente lite to the tune of

₹20,000/- per month, in addition to ₹20,000/- awarded in the proceedings under Section 12 of the Domestic Violence Act from the date of the application. Order granting litigation expenses is upheld. Husband is directed to make the payment of entire arrears from the date of the application within a period of one month from the date of the receipt of certified copy of this order.

Liberty is granted to the wife to move an appropriate application in case of non-compliance of this order.

Revision petitions stand disposed of.

(AMIT RAWAL)
JUDGE

November 27, 2015
savita