

CR-4365-2015 (O&M)

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

**CR-4365-2015 (O&M).
Decided on: July 14, 2015.**

Padam Pardeep Sharma

..... Petitioner(s)

Versus

Sandeep Kaur

..... Respondent(s)

*** * ***

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

**PRESENT Mr.Vinod Khunger, Advocate,
for the petitioner.**

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

This is a revision petition against the order dated 11.5.2015 granting Rs.7,000/- per month as maintenance pendente lite to the respondent-wife along with Rs.5,000/- per month as expenses for the minor daughter born out of the wedlock, passed in an application under Section 24 of the Hindu Marriage Act.

Counsel for the petitioner has submitted that the wife has not been able to establish that she is unable to maintain herself as while getting divorce from her earlier husband she had got a sum of Rs.8 lacs as lump sum maintenance. The said amount should be deemed to be her income sufficient enough to maintain her.

I have heard the learned counsel for the petitioner and I am of the opinion that the lower Court before determining the amount of maintenance pendente lite under section 24 of the Hindu

CR-4365-2015 (O&M)

Marriage Act, has carefully considered the paying capacity of the petitioner and his salary has been recorded as Rs.29,113/- per month.

Counsel for the petitioner submits that the said amount is for looking after his daughter born out of first wedlock.

I have considered the facts and circumstances of the case and I am of the opinion that the salary of the petitioner -husband has been taken to be around Rs.30,000/- per month by the trial Court as he is working in an ITI College. I do not find any force in the contention of the learned counsel for the petitioner that any amount of lump sum maintenance awarded to wife from her first marriage could be treated as her income to prejudice her right to claim maintenance. In case the second marriage is disturbed and the husband filed a petition for divorce, in such circumstances, the interim maintenance cannot be declined to the spouse on the ground that she has already obtained lump sum amount of maintenance from her previous husband. The amount of Rs.12,000/- per month to wife and daughter if seen in context to the rising prices is a meagre amount but taking into consideration the salary i.e. Rs.30,000/- of the husband, the amount appears to be slightly on higher side but reasonable enough if seen in context to the obligation of the husband to maintain wife and daughter. Depriving a wife of amount of interim maintenance under Section 24 of the Hindu Marriage Act, on the ground that she has already suffered a divorce and got

CR-4365-2015 (O&M)

compensation by getting some lump sum maintenance will be an unreasonable ground to deny the right under Section 24 of the Hindu Marriage Act. The maintenance and compensation for the matrimonial adversity of wife cannot be considered as an income to enable the second husband to deny her right of maintenance.

No ground is made out for interference.

Dismissed.

July 14, 2015.
rka

(M.M.S. BEDI)
JUDGE