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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.4150 of 2014
Date of decision:09.03.2015

Smt. Shruti Kataria ...Petitioner

Versus

Pankaj Kataria ...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Namit Khurana, Advocate,
for the petitioner.

Ms. Payal Mehta, Advocate,
for respondent.

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Rakesh Kumar Jain, J.

The petitioner is aggrieved against the order dated 28.04.2014, dismissing her prayer for grant of maintenance *pendente lite.*

The parties to the lis got married on 21.11.2008 at Karnal and were blessed with a male child, namely, Ujjwal on 25.01.2010. The respondent filed a petition for dissolution of marriage on the ground of cruelty. The petitioner filed an application under Section 24 of the Hindu Marriage Act, 1955 (here-in-after referred to as the "Act") claiming maintenance *pendente lite* and the litigation expenses. The learned trial Court declined to grant maintenance *pendente lite* but a sum of ₹5,000/- was granted towards litigation expenses and hence, the present revision petition.

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The trial Court has observed that the petitioner has claimed maintenance *pendente lite* @ ₹25,000/- per month besides litigation expenses of ₹11,000/-, whereas she is already getting ₹6,000/- per month as interim maintenance under Section 125 of the Code of Criminal Procedure, 1973 for herself and the minor son who is studying in 1st standard. She is holding the post of Guest Teacher and earning about ₹25,000/- per month and also getting the maintenance allowance of ₹1,500/- per month in the proceedings under the Protection of the Women from Domestic Violence Act, 2005, whereas admittedly, the husband is earning an amount of ₹50,000/- per month; has to look after his old ailing parents and his sister, has to pay the rent of ₹5,000/- per month and the premium of ₹1,000/- per month for the insurance of his child. It is observed that he had to maintain himself, his old ailing parents and sister and the respondent-wife has to maintain only herself and her minor son.

Learned counsel for the petitioner has argued that the Court below has committed an error in appreciating the Income Tax return of the respondent for the year 2011-12 in which the net income of the respondent has been shown as ₹5,19,522/- out of which he is paying the income tax of ₹39,041/-. Thus, the monthly income of the petitioner comes to ₹43,293/-.

During the course of hearing, learned counsel for the petitioner has submitted that the Court below has wrongly observed that the respondent has to look after his sister also, who is otherwise married.

This fact could not be denied by learned counsel for the respondent.

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Keeping in view the aforesaid peculiar facts and circumstances, the present revision petition is hereby allowed and the petitioner-wife is held entitled to get ₹4,000/- per month from the respondent-husband towards maintenance *pendente lite* under Section 24 of the Act.

March 09, 2015 **(Rakesh Kumar Jain)**
vinod* **Judge**