

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

**CR No. 6620 of 2015 (O&M)
Date of decision: 13.10.2015**

Shashi Kant

... Petitioner

versus

Jyoti Sharma and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. A.S. Manaise, Advocate for the petitioner.

K.Kannan, J.

The revision is against the order allowing for interim maintenance at Rs. 8,000/- for the wife and the children. The husband's contention was that he had already paid Rs. 6,00,000/- and odd amount as maintenance to the wife pursuant to a settlement that gave place to the presentation of the petition for divorce by mutual consent. The husband has however prepared to admit that Section 13-B petition for divorce filed under Hindu Marriage Act was not carried through to its logical end and wife withdrew by mutual consent on a plea that she had not been paid her maintenance as promised. The instant petition has been filed before the Court below by the husband seeking for divorce on the ground of cruelty and the wife has applied for maintenance, which has been granted through the impugned order.

The issue of whether the amount of Rs. 6,00,000/- and odd amount had been paid would itself require consideration only in the Court of trial alongside the issue of a plea of cruelty made by the husband and if the husband himself is prepared to admit that it is a contentious issue brought at the instance of the wife, it will be harsh to deny the maintenance to the wife now. A plea by the learned counsel that he was prepared to pay the maintenance for the child only, cannot be accepted only because the mother would require an equal provision for maintenance. When there is no admission by the wife that

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she has received the amount promised at the Panchayat, it will be always open to the husband to plead that the amount had been paid already as undertaken before the Panchayat and that will be considered for assessment of adjustment of arrears of maintenance or while making provision for permanent alimony under Section 25 of the Hindu Marriage Act if such an action taken by the wife in the event of the petitioner being successful at the trial.

The order already passed is maintained and the revision petition is disposed of with above observations.

(K.KANNAN)
JUDGE

13.10.2015
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