IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

224 C.R.No.7284 of 2013(O&M)

Abhishek Gupta .....Petitioner

Versus

Jyoti Gupta .....Respondent

C.R.No.1123 of 2014(O&M)

Jyoti Gupta .....Petitioner

Versus

Abhishek Gupta .....Respondent

Date of Decision:21.07.2015

CORAM: HON'BLE MR. JUSTICE K.KANNAN.

1. Whether Reporters of local papers may be allowed to see the judgment?No
2. To be referred to the Reporters or not?No
3. Whether the judgment should be reported in the Digest? No

Present: Mr.D.K.Gupta, Advocate,
for the petitioner in C.R.7284 of 2013 and
for the respondent in C.R.No.1123 of 2014.

Mr.Sanjay Mittal, Advocate,
for the petitioner in C.R.No.1123 of 2014 and
for the respondent in C.R.No.7284 of 2013.

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K.KANNAN, J.(oral)

Both the revision petitions are against interim orders in matrimonial proceedings granting maintenance to the wife and child @ Rs.20,000/- and Rs.3,000/- per month, respectively. The order was passed by the Presiding Officer taking a statement made by the husband in Court that his monthly income was Rs.75,000/-. The revision petitions are filed by both husband and wife, the husband claiming in C.R.No.7284 of 2013 that the amount determined is very high while the wife has filed C.R.No.1123 of 2014 contending that the maintenance is too low.

Learned counsel appearing on behalf of the husband contends that his monthly income is only Rs.46,299/- and referred the document filed along with the application i.e. the pay slip for the month of August , 2014 issued by his employer Genpact India which would show his gross-pay is Rs.60,311/-. There are deductions to the tune of Rs.14,012/-. His contention is that the petitioner has to take care of his own expenses and pay rent of the premises in which he is residing. According to him, the Court below was in error in awarding interim maintenance without taking note of the wife's own resources. She had been having a distributorship of consumer products and she was an income tax assessee herself for the years 2009-10 upto 2011-12 and she has abandoned the distributorship only because she may lose one source of income to claim higher contribution from her husband. It is further contended on behalf of the husband that the wife is conducting private tuitions for school students and earn considerable amounts. Interim maintenance of Rs.15,000/- both for the wife and the daughter will satisfy the reasonable requirements.

Learned counsel appearing on behalf of the wife points out that on the admissions made before the trial Judge the order was passed regarding his income status and would also refer to the income tax returns of the husband, the genuineness of which were admitted even before the Court below that showed that his annual income was over Rs.12 lacs and he was paying tax of Rs.2 lac annually. On such recognition it would be seen that the husband was earning nearly Rs.1 lac or more per month and the maintenance granted would be insufficient and thus, enhancement must be provided. Learned counsel also argues that even the amount which has been granted by the Court below has not been paid by the husband.

The proceedings under Section 24 of the Hindu Marriage Act are summary and at all times the effort will be to see that the wife is not in a state of deprivation and she is able to maintain the same status as she had at the time of marriage. The reason thereof must be judged as what the standard of living of a person was used to. If she was having a distributorship at the time when they were together but she has given up the distributorship, I cannot say that a person has given it up only to get higher contribution from the husband. Further, I cannot really understand as to how there can be a salary certificate produced before this Court which is at variance with the copy of income tax returns which had been admitted by the husband before the Court. I will not place reliance upon the copy of the salary certificate produced before me and go with the material of what the trial Court relied upon to affirm the maintenance granted for the wife and child at 25% of the gross earnings which is fair and reasonable for a wife to live with. If the trial Court thought that the amount is appropriate in the circumstances, I will not allow for a further modification either by way of increase or decrease. I maintain the order and dismiss both the revision petitions.

There is also a contention brought by the wife that the amount determined has not been paid. It is contended that the main divorce petition itself has been dismissed. Interim maintenance under Section 24 themselves would operate only during the pendency of the proceedings. The determination of interim maintenance as done by the trial Judge which is now confirmed will therefore operate only for calculations of the amount due only upto the date when the matrimonial petition filed by the husband was dismissed. For recovery, if any, the wife is at liberty to apply for execution of the amount so reckoned and for any future maintenance, she shall resort to independent proceedings, in accordance with law.

Both the revision petitions are dismissed accordingly.

July 21, 2015 (K.KANNAN)
seema JUDGE