

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 169 of 2015

1. Shiv Kumar Rathore S/o Shri Niranjana Prasad Rathore, aged about 26 years, R/o Ward No. 6, Purani Basti, Kharsia, District Raigarh (Chhattisgarh).....(Appellant)

---- Applicant

Versus

1. Smt. Ankita @ Priti Rathore W/o Shri Shiv Kumar Rathore, aged about 23 years, R/o Saragaon, Tahsil Champa, P.S. Sargaon, District Janjgir Champa (Chhattisgarh)

---- Non-applicant/Respondent

For Applicant – Ms. Ruchi Nagar, Advocate.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

Pritinker Diwaker, J.

12/01/2016

1. Chhallenge in the present appeal is to the order dated 27-02-2015 passed by the Family Court, Raigarh allowing the application as filed by the non-applicant under Section 24 of the Hindu Marriage Act and granting Rs.2,500/- per month as maintenance pendente lite and Rs.5000/- towards litigation expenses.

2. Counsel for the applicant submits that on 24-06-2013 vide Annexure -A/4, the non-applicant has already entered into an agreement with the applicant agreeing to accept Rs.3,50,000/- as *stridhan* and then not to claim anything in future. He further submits that the parties have also agreed for legal separation. It has been argued that once the agreement has been entered into between the applicant and non-applicant, the Court below could

not have awarded maintenance pendente lite to the non-applicant. It has been further argued that the Court below has not considered all aspects of the case and has granted maintenance without affording proper opportunity to the applicant.

3. We have heard the counsel for the applicant and perused the record.

4. The order impugned reflects that the applicant is working as Mechanic and considering his financial status and condition of the non-applicant the Court below has passed the order granting Rs.2,500/- as maintenance pendente lite and further granting Rs.5000/- towards the expenditure.

5. It is settled position of law that no such agreement as pointed out by the applicant will take away the legal right of the non-applicant to claim her legal rights provided under Section 24 of the Hindu Marriage Act. The maintenance amount pendente lite awarded in favour of the non-applicant appears to be just and reasonable. Likewise, the Court was fully justified in awarding Rs.5000/- to the non-applicant towards the cost of litigation. We find no substance in the appeal. This apart, the appeal is also barred by limitation as there is delay in filing the appeal of 214 days and considering that aspect also, we are of the view that the appeal is liable to be dismissed, the same is accordingly dismissed.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Chandra Bhushan Bajpai)
Judge