

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

**Civil Revision No.2119 of 2016 (O&M)
Date of Decision: 28.09.2016**

Vikash Bhandana @ Vikas

.....Petitioner

Vs

Sunita

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sarwan Singh, Sr. Advocate with
Mr. N.S. Rapri, Advocate
for the petitioner.

Mr. Navneet Singh, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. In this revision petition, petitioner has challenged the order dated 03.03.2016 passed by District Judge, Family Court, Gurgaon vide which application under Section 24 of the Hindu Marriage Act, 1955 (hereinafter to be referred as 'the Act') was allowed and the respondent was awarded maintenance *pendente lite* @ Rs.15,000/- per month from the date of filing of the application besides awarding litigation expenses to the tune of Rs.2200/-.

[2]. Petitioner filed a petition under Sections 11 and 12 of

the Act for decree of nullity of the marriage dated 12.02.2013 between the parties. The marriage was solemnized according to Hindu rites and ceremonies. In the said petition, an application under Section 24 of the Act was filed by the respondent-wife for grant of maintenance *pendente lite* and litigation expenses on 08.01.2016.

[3]. Respondent-wife alleged number of grounds for claiming the maintenance *pendente lite*. No issue was born out of their wedlock. Petitioner-husband was claimed to be belonging to a well of family having sufficient agricultural land, moveable and immovable properties. Petitioner-husband was doing B.Tech. A maruti car was given at the time of marriage which was disposed of by the petitioner-husband. No source of income was pleaded by the respondent-wife and award of maintenance *pendente lite* was claimed. Relationship between the parties was admitted, though they were living separately.

[4]. In reply to the application, petitioner-husband alleged that the respondent-wife treated him with cruelty and it was not possible for him to live together. He claimed himself to be a student. The family properties belonged to his father. He claimed himself to be dependent upon the income of his father. He was student of B.Tech and helping his father in maintaining

the properties. Petitioner-husband admitted that maruti car was given in the dowry which had been sold by him and the sale proceeds were retained by him.

[5]. It is a settled principle of law that wife is entitled to lead the life as per status of his husband. Evidently, petitioner-husband belongs to a good family which is financially sound. Though, petitioner is a student, but he is helping hand to his father in maintaining the family properties. Admittedly, the car given in the dowry was disposed of by the petitioner and sale proceeds were retained by him. The respondent-wife claimed that her family had spent huge amount to the tune of Rs.60 lakhs on the marriage. There was evasive reply on behalf of the petitioner.

[6]. During the pendency of the present petition, an application was moved by the respondent seeking to place on record the judgment dated 05.09.2016 passed by District Judge, Family Court, Gurgaon vide which an amount of Rs.18,000/- per month has been awarded to the respondent-wife in the proceedings under Section 125 Cr.P.C. In the abovesaid judgment it was recorded that the present-respondent produced on record *jamabandies* Ex.P-1 to Ex.P-19 therein to prove the properties owned by the petitioner herein. Though none of the

properties were in the name of the husband, but by relying upon college fee receipt Ex.R-3 and copy of academic identity card Ex.R-4, it was concluded that as a matter of common knowledge in agricultural families, properties have been held by head of the family or some other elder person through whom the same is derived, but all the family members are the stake-holders and beneficiaries of the property. Even if, the student like the petitioner is unemployed on the relevant day, but the fact remained that he was paying Rs.15,000/- regularly without being any arrears thereof. The capability of the petitioner was considered to be sufficient for awarding additional amount of Rs.3,000/-. The wife is entitled to lead the life as per status of the husband.

[7]. Taking entire stock of the situation, the award of Rs.15,000/- cannot be held to be beyond the reach of the petitioner, rather the same would be in consonance with the facts and circumstances of the case.

[8]. Learned Senior counsel for the petitioner relied upon **Rishikesh Singh @ T.R. Singh vs. Kiran Gautam (Chhattisgarh), 2015(1) RCR (Criminal) 674**. The perusal of the judgment revealed that the case was under Section 125 Cr.P.C. where salary of the husband was assessed to be

Rs.18,000/- per month only. Keeping in view the cost of living, maintenance was enhanced from Rs.2,000/- to Rs.3,000/-. In the instant case, in the proceedings under Section 125 Cr.P.C., the Family Court has awarded an amount of Rs.18,000/- per month i.e. Rs.3,000/- per month over and above the amount awarded under Section 24 of the Act.

[9]. Learned Senior counsel for the petitioner also relied upon **Dalip Kumar @ Deepa vs. Sunita and another, 2014(2) RCR (Criminal) 434** and **Sunita Kachwaha and others vs. Anil Kachwaha and others, 2014(4) RCR (Criminal) 831** to contend that the amount awarded is already on the higher side.

[10]. Having considered the controversy, I found that the cited precedents were arising out of proceedings under Section 125 Cr.P.C., wherein on the basis of material evidence on record, the observations came to be recorded in individual cases. In the present case, in the proceedings under Section 125 Cr.P.C., the Family Court, on the basis of evidence on record concluded that the husband is liable to pay amount of Rs.18,000/- per month as maintenance under Section 125 Cr.P.C. That ground itself differentiates the issue involved in the present case.

[11]. Having considered the submissions made by learned

counsel for the parties, I do not consider this revision petition to be worth interference. The amount awarded as maintenance under Section 24 of the Act cannot be held to be on higher side in view of facts and circumstances of the case. This revision petition is accordingly dismissed.

September 28, 2016

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes / No

Whether reportable Yes / No