

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

**CR No.2203 of 2016(O&M)
Date of Decision-16.09.2016**

Teerathram Chand ... Petitioner
Versus
Renu Chand ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.
Mr. D.K. Bhatti, Advocate for the respondent.

RAJ MOHAN SINGH, J.

[1]. Petitioner husband is aggrieved of order dated 23.02.2016 passed by Additional District Judge, Chandigarh whereby the petitioner was directed to pay a sum of Rs.30,000/- per month from the date of filing of the application till disposal of the divorce petition under Section 24 of the Hindu Marriage Act. Additionally, the respondent was entitled to an amount of Rs.5000/- as litigation expenses in the divorce petition.

[2]. Learned counsel for the petitioner vehemently contended that the petitioner is 65 years of age. He as well as respondent were divorcees from their previous marriages. Marriage was solemnized on 07.04.2003 as per Hindu Rites. Petitioner had two sons and respondent had one daughter from their previous marriages. Petitioner had shifted from Holland to India for taking care of his parents. The mother of the petitioner is 90 years of age. Elder son of the petitioner namely Karan Kumar

Chand is stated to be 35 years of age and is unemployed. Petitioner had to send 11000 Euros to him on 13.10.2015 which were equivalent to approx. 8 lakhs rupees.

[3]. In addition to above liability, the petitioner claimed that there are various day to day expenses towards security maintenance, society miscellaneous expenses, medical expenses towards himself, medical expenses towards mother, electricity and water charges and other day to day expenses i.e. grocery, salary of servant and in this way, an amount of Rs.40,000/- is claimed to be the minimum requirement to meet out these minimum routine expenditure which do not involve any outings and entertainment. Respondent is also staying along with the petitioner in the same flat along with her daughter and they are using the same kitchen for which grocery is being purchased by the petitioner.

[4]. Petitioner had paid huge amount towards his nasal surgery in June 2015. Respondent is suffering from HIV Positive and regarding this, her free treatment is going on in PGI, Chandigarh. The petitioner has not been detected as HIV Positive as they are not maintaining any physical relationship.

[5]. Petitioner also claimed that as against the personal expenses to the petitioner to the tune of Rs.40,000-50,000/- per month, he is left with only meager amount of Rs.28,000/- or so. If an amount of Rs.30,000/- per month is allowed to be paid to the

respondent he would left with no amount to meet out contingency factors.

[6]. The petitioner has already paid a sum of Rs.65,000/- to the respondent and he has not caused any threat so as to warrant filing of case under Domestic Violence Act by the respondent. The petitioner has been burdened with many litigations and therefore, in all fitness of things, the amount of compensation is claimed to be on higher side.

[7]. Learned counsel for the respondent vehemently opposed the submissions made by learned counsel for the petitioner. Even a reply by way of affidavit of respondent has been filed in Court. The factum of respondent having suffered with HIV Positive has been replied in the following manner:-

“That answering respondent fell ill in January, 2015 and got treatment for various doctors and after the medical examination it was diagnosed that answering respondent is HIV Positive. It will not be out of place to mention here that petitioner is citizen of Holland and HIV virus infected needles are easily available for sale there, and petitioner had many times in his fit of anger, threatens the respondent that he will infact the respondent and will ruin her life. But due to lack of any evidence answering respondent cannot take stand in the society least to say before the court.”

[8]. Respondent also highlighted the behavior of petitioner suddenly changed from bad to worse and instead of giving the emotional support, he abandoned the respondent in order to get

rid of her. Respondent has also given details of properties owned and possessed by the petitioner in para No.1 of the preliminary objections. Perusal of these properties reveals that the petitioner has 21 properties in his name in Chandigarh, Mohali, Gurgaon, Dharukera District Rewari and Alwar Rajasthan.

[9]. On being specifically put in respect of aforesaid properties, learned counsel for the petitioner replied that most of the properties are deadwood and are of no recurring profit. In a way, ownership of these properties stands admitted. Even in the reply filed by the petitioner to the application under Section 24 of Hindu Marriage Act before the Additional District Judge, Chandigarh, the details of properties were rather admitted.

[10]. Petitioner has rented out most of his properties and according to respondent, he has income of more than 3 lacs per month. The award of Rs.30,000/- per month as maintenance pendente lite is nothing, but a solace keeping in view the high earning capacity of the petitioner. It is a settled principle of law that wife is also entitled to live as per status of the husband though the maintenance cannot be awarded to the extent of impeding conciliatory mechanism or to gain unlawful enrichment, but certainly the wife is entitled to live at par with status of her husband in near approximation.

[11]. The award of Rs.30,000/- per month towards maintenance pendente lite and Rs.5000/- towards litigation

expenses held not to be on higher side by any stretch of imagination keeping in view the financial status of the petitioner. In view of aforesaid, this revision petition is totally devoid of merits and the same is accordingly dismissed.

16.09.2016

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No