

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT  
CHANDIGARH

C.R. No.2218 of 2016

Date of Decision.07.04.2016

Ranjit Singh

.....Petitioner

Vs.

Mandeep Kaur and another

.....Respondents

Present: Mr. Kamal Singh, Advocate  
for the petitioner.

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

-. -

**K. KANNAN J. (ORAL)**

1. The revision petition is at the instance of the husband complaining that a maintenance cannot be sought through an application under Section 24 of the Hindu Marriage Act in matrimonial proceeding and the remedy will be only through application under Section 125 Cr.P.C. The argument is untenable.

2. The counsel for the petitioner relies on judgment of this Court in Satya Pal Vs. Sona Devi 1992(2) LJR 710 where the Court has considered whether a grant of maintenance to minor children would be justified or not. The Court has said that Section 26 of the Hindu Marriage Act specifically dealt with custody of the children, their maintenance and education and maintenance cannot be granted under Section 24. In Naresh Vs. Smt Rajni in C.R. No.1635 of 2015 dated 14.12.2015 where the issue of maintenance was with reference to the quantum of maintenance awarded by the trial Court, the argument again

was whether the maintenance could be granted for the child as well. This Court was observing that maintenance cannot be granted to the child. The above judgments are out of sync with the established principle of law.

3. The issue of whether a claim for maintenance could be made for a child in an application under Section 24 was directly confronted by the Supreme Court in Jasbir Kaur Sehgal Vs. The District Judge, Dehradun 1997(7) SCC 484. The Court was holding that “Section 24 of the Act no doubt talks of maintenance of wife during the pendency of the proceedings but this Section, in our view, cannot be read in isolation and cannot be given restricted meaning to hold that it is maintenance of the wife alone and no one else. Since wife is maintaining the eldest unmarried daughter, her right to claim maintenance would include her own maintenance and that of her daughter. This fact has to be kept in view while fixing maintenance pendente lite for the wife. We are aware of the provisions of Section 26 of the Act providing for custody of minor children, their maintenance and education but that Section operates in its own field.” This decision is, therefore, a direct answer to the point raised by the petitioner and which has been missed by the two decisions referred to before me. The first judgment in Satya Pal Vs. Sona Devi rendered prior to the decision of the Supreme Court and could not have, therefore, been referred it. The second judgment in Naresh Vs. Smt Rajni is subsequent to the judgment of the Supreme Court and being contrary to the judgment of the Supreme Court is not good law.

4. There have been several other judgments of the Supreme

Court where it has approved of maintenance granted to the wife that includes the maintenance for not merely herself but also of the child. In *Amarjit Kaur Vs. Harbhajan Singh 2003(10) SCC 228* the lower Court had granted maintenance to a child under Section 24 proceedings on condition of a DNA test to be conducted and to secure proof of the legitimacy of the child before maintenance could be granted. The Supreme Court was holding that it could not impose such a condition for grant of maintenance under Section 24. In *Anu Kaul Vs. Rajeev Kaul 2009(13) SCC 209*, the Court assessed a maintenance granted to the wife in the light of the fact that the child was daughter of highly placed officer and the exorbitant fee structure in good schools and cost of living itself would be a justification for enhancing the grant of maintenance granted at ₹2000/- to ₹5000/- apart from the maintenance granted to the wife at ₹10,000/-.

5. Several other Courts in India have taken a similar view and it will be sufficient if I merely make reference to the judgments of such Courts (*Yuvraj Vs. Kirubaarani Devi AIR 2009 (Madras) 138*; *Smt. Sunita Tasera Vs. Lalit Kumar Jagrawal AIR 2012 (Raj) 82*; *Padmavathi and others Vs. C. Lakshminarayana 2003(3) RCR (Civil) 158*; *Rajendra Kumar Vs. Savitribai 1992(1) DMC 567*; *Chinmoy Dutta Vs. Smt. Patralekha Dutta 2012(1) Cal. L.T. 11*; *Praveen Menon Vs. Ajitha K. Pillai 2001(3) ILR (Kerala) 362*; *Neelam Kalia Vs. Rajesh Kali AIR 2013 (HP) 76*; *Mahendra Kumar Vs. Snehalata Kar AIR 1983 (Orissa) 74* ) and above all a judgment of this Court itself in *Hanish Kumar Vs. Deepika 2015(4) RCR (Civil) 59*.

6. It must be noticed that Section 24 which makes reference to

maintenance of spouse does not spell out the maintenance claim of a child only because the reasonable wants of a spouse which is relevant for determination of maintenance amount ought to be taken to include the expenses that have to be incurred for a dependent child. It may not perhaps be possible for a child to file an application under Section 24 of the Hindu Marriage Act, for the entire scheme of the Hindu Marriage Act does not contemplate any petition between a child and a parent. Even a petition under Section 26 relates to custody of a child which is in a proceeding between the spouses. If a petition were to be filed against a child for custody not as an interim application but as a main petition itself, it could be done only under the Guardianship and Wards Act. The Hindu Marriage Act being an enactment that deals with matrimonial issues between the spouse ought to therefore make possible a claim for maintenance of not merely of the spouses but also of children and further a maintenance for spouse at all times ought to be understood as including a claim to maintenance for the child as well, for after all a child is never a party or is not even considered to be a party to the proceedings *proprio vigore*.

7. The revision petition is without merit and it is dismissed.

**(K. KANNAN)**  
**JUDGE**

**April 07, 2016**  
**Pankaj\***