

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

Civil Revision No.357 of 2016

Date of decision : 20.01.2016

Krishan Yadav

.....Petitioner

Versus

Smt. Poonam

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Aditya Sanghi, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been filed against the order dated 10.12.2015 passed by learned Additional District Judge, Narnaul whereby the application filed by respondent- wife under Section 24 of the Hindu Marriage Act, 1955 (hereinafter called the 'Act') has been allowed and the petitioner is directed to pay interim maintenance @ Rs.10,000/- per month from the date of application, besides the litigation expenses to the tune of Rs.1000/-.

2. Learned counsel for the petitioner contended that the

petitioner was serving as Teacher. As per his salary certificate, he was drawing the salary @ Rs.37,591/- per month. He further contended that the petitioner is absent from duties since 10.11.2014 and is not getting any salary. Thus, he contended that at present the petitioner has no income. He further contended that the petitioner is also suffering from depression and has to receive the treatment from Medanta Hospital, Gurgaon and other hospitals. Thus, he contended that the amount of interim maintenance awarded by learned trial court @ Rs.10,000/- per month is exorbitant.

3. I have duly considered the aforesaid contentions.

4. The present petitioner has filed the petition under Section 13 of the Act for dissolution of marriage by a decree of divorce against the respondent-wife. In the application filed by respondent under Section 24 of the Act for grant of maintenance *pendent lite*, she has pleaded that the petitioner is getting salary of Rs.65,000/- per month. He and his family members are also running education society and earning crores of rupees in a year. She has claimed the interim maintenance @ Rs.35,000/- per month. The learned trial court has awarded the maintenance *pendent lite* @ Rs.10,000/- per month. The said order has been assailed by learned counsel for the petitioner on two grounds that the salary of the petitioner has not been correctly mentioned in the application as in fact he is getting the salary only @ Rs.37,591/- per month but now he is absent from duty and not getting any salary and secondly, he suffers from depression.

5. This fact is not disputed that the petitioner is employed as S.S. Master in the Government School. As per the certificate issued by the Head Master of the Government Middle School, Katkal, Ateli, the petitioner

is absent from duty since 10.11.2014 and is not getting any salary. But that is only a temporary phase. He is still in job and will be treated as the government employee. The learned trial court has categorically mentioned in the impugned order that it is not in much dispute that the petitioner and his family members are running education society. So, the petitioner must have sufficient income from that education society. The income from that society has not been disclosed by the petitioner. As per the law laid down by Hon'ble Apex Court in case ***Jasbir Kaur Sehgal Vs. District Judge, Dehradun 1997(4) RCR (Civil) 65*** for the purpose of adjudicating the application under Section 24 of the Act, the husband has to disclose the entire income from all sources but in the instant case, petitioner has kept concealed his income from the education society. Hence, it cannot be stated that the petitioner has no financial capacity to pay the interim maintenance @ Rs.10,000/- per month as fixed by learned Additional District Judge.

6. Mere this fact that the petitioner is under some treatment is also no ground to deprive of the respondent wife of her right to seek maintenance under Section 24 of the Act.

7. Thus, keeping in view my aforesaid discussion, I do not find any illegality in the impugned order passed by learned Additional District Judge.

8. Resultantly, the present petition being devoid of merits, is hereby dismissed.

20.01.2016
sunil yadav

(DARSHAN SINGH)
JUDGE