

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

CR No.4440 of 2015

Decided on: 21.03.2016

Sandeep Kumar

....Petitioner

Versus

Amarjeet Kaur and another

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Ms. Sharmila Sharma, Advocate for the petitioner.

Mr. S.S. Momi, Advocate for respondent No.1.

None for respondent No.2.

REKHA MITTAL J. (Oral)

The present petition has been directed against order dated 19.05.2015 (Annexure P-1) passed by the trial Court i.e. Additional District Judge, Jind, allowing application of the respondent-wife for grant of maintenance *pendente lite* during pendency of the petition filed under Section 13 of the Hindu Marriage Act, 1955 (in short 'HMA') and the respondent-wife has been awarded maintenance @ Rs.2,000/- per month inclusive of maintenance granted under Section 125 of the Criminal Procedure Code from the date of application. She has also been awarded Rs.5,500/- as litigation expenses.

Counsel for the petitioner would contend that as the respondent has performed second marriage with Bunty @ Avtar Singh-respondent No.2 and is thus living in adultery, she has dis-entitled herself to get maintenance from the petitioner-husband.

Counsel for the contesting respondent, on the contrary, would urge that the allegations raised by the petitioner in regard to adultery is a matter of evidence yet to be adduced by the parties. It is

further argued that at present there is nothing on record to *prima facie* establish plea of the petitioner that the respondent is living in adultery to deny her maintenance.

I have heard counsel for the parties, perused the records but do not find any merit in the petition.

Admittedly, Smt. Amarjit Kaur-respondent No.1 is the wife of petitioner against whom the petitioner has filed petition for dissolution of marriage under Section 13 of HMA. The mere fact that the petitioner has levelled allegations against the respondent-wife that she is living in adultery with respondent No.2 is not sufficient to deny claim of the respondent for grant of maintenance *pendente lite*. Counsel for the petitioner is not in a position to point out any materials on record which can *prima facie* prove her contention that the respondent-wife is living in adultery. Any complaint alleged to be filed by Bunty @ Avtar Singh against respondent No1. is not sufficient to record a finding that respondent No.1 has performed marriage with respondent No.2 or she is living in adultery.

No other point has been raised.

In view of what has been discussed hereinabove, finding no merit, the petition is dismissed. No order as to costs.

(REKHA MITTAL)
JUDGE

21.03.2016
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