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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5418-2016 (O&M)

Date of decision : 24.08.2016

Rajwant Singh

... Petitioner

Versus

Jatinder Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. G.S. Ghuman, Advocate
for the petitioner.

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?

AMIT RAWAL, J. (ORAL)

The petitioner-husband is aggrieved of the impugned order dated 08.08.2016 (Annexure P-6), whereby the interim maintenance to the tune of ₹ 2,500/- during the pendency of the petition filed under Section 11 of the Hindu Marriage Act, 1955 (hereinafter called 'the 1955 Act') has been allowed.

Mr. G.S. Ghuman, learned counsel appearing on behalf of the petitioner-husband submits that in such cases, the status of the wife would not be a wife as the marriage was void. In support of his contentions, he relies upon the judgment of Hon'ble Supreme Court in “Yamunabai Anantrao Adhav V/s Anantrao Shivram Adhav” 1988 AIR (SC) 644 and the Division Bench judgment of this Court rendered in “Manpreet Kaur V/s Balkar Singh” 2015(5) RCR (Civil) 510. The Court could have taken into consideration the petition as an evidence for determination of the

aforementioned application by invoking the provisions of sub-Section 2 of Section 20 of the 1955 Act, thus, urges this Court for setting aside the impugned order under challenge.

I have heard the learned counsel for the petitioner and appraised the paper book. The petition, aforementioned, had been filed on 16.07.2015. Even if the marriage is voidable or until and unless it is not being declared as void, the status of the respondent-wife would be of a wife, therefore, she would be entitled to seek the interim maintenance as indicated in the impugned order. The petitioner-husband shall be at liberty to lead the evidence as early as possible to avoid the wrath of interim maintenance which has been ordered to be paid from the date of the application till the disposal of the main divorce petition. The provisions of sub-Section 2 of Section 20 of the 1955 Act would not apply for the adjudication of the *ad interim* application. The same view has been held by the Division Bench judgment referred above. The ratio decidendi culled out by the Hon'ble Supreme Court in "Yamunabai Anantrao Adhav's case" (supra) would not apply as it is based upon the facts and circumstances of the case and therefore, it is *in personam*.

For the foregoing reasons, no ground is made out for interference and accordingly, the revision petition is dismissed.

24.08.2016
yogesh

(AMIT RAWAL)
JUDGE

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Whether speaking/reasoned Yes/ No

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Whether Reportable Yes/ No