

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

C.R. No.560 of 2015
Date of Decision.03.11.2016

Umed s/o Sh. SharwanPetitioner
Vs
Monika DeviRespondent

Present: Mr. Anuj Balian, Advocate
for the petitioner.

Mr. Paramjit Jakhar, Advocate
for the respondent.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The present petition is at the instance of the husband challenging the impugned order whereby the maintenance pendent lite @ ₹3000/- in the application filed under Section 24 of the Hindu Marriage Act, in proceedings initiated under Section 13 of the Hindu Marriage Act, at the instance of the wife, has been granted.

Learned counsel appearing for the petitioner submits that the petitioner is having a 90% physical handicapness/disability and therefore, he is not able to earn even the aforementioned amount and that is also the ground for seeking divorce. In proceedings initiated under Section 125 Cr.P.C, maintenance @₹3000/- has been awarded and the revision petition against the same is pending in this Court.

He also submits that owing to the non-payment of the arrears, his defence has also been struck off.

Per contra, Mr.Paramjit Jakhar, learned counsel appearing for the respondent does not dispute the award of the maintenance @₹3000/- per month as well as the disability, however, submits that that there are arrears

qua maintenance and in this regard, execution petition is stated to be pending.

I have heard learned counsel for the parties and appraised the paper book. Once the execution qua proceedings under Section 125 Cr.P.C is stated to be pending, it means that the petitioner is in arrears of maintenance under Section 125 Cr.P.C. proceedings, but the fact remains that the Court below ought to have taken into account the locomotive disablement of the petitioner, much less, the fact that wife cannot be entitled to double the amount of maintenance resulting into striking off the defence. Against the order awarding maintenance @ ₹3000/- per month under Section 125 Cr.P.C , I am of the view that maintenance pendent lite is equal to the aforementioned amount and the petitioner is not liable to pay double the amount of the maintenance.

Since his defence has been struck off, I deem it appropriate to grant one opportunity to file the written statement without imposing of costs keeping in view his disability. It is expected that the Court below shall decide the proceedings under Section 13 of the Hindu Marriage Act as early as possible.

Before I conclude, I deem it appropriate to issue directions to the petitioner to make the payment of arrears, if any, in proceedings under Section 125 Cr.P.C within a period of 45 days from the date of receipt of copy of this order. It would be without prejudice to his rights in the revision petition, stated to be pending before this Court.

The revision petition is disposed of with the above observations.

(AMIT RAWAL)
JUDGE

November 03, 2016
Pankaj*