

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

**Civil Revision No.6181 of 2014
Date of decision : 11.04.2016**

Mukesh Kumar

.....Petitioner

Versus

Reena Saini

...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. Fateh Saini, Advocate for petitioner.

Mr. Sanjay Verma, Advocate for respondent.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 22.08.2014, passed by the learned Additional District Judge, Kurukshetra, vide which the maintenance *pendente lite* has been awarded to respondent-wife at the rate of Rs.7000/- per month under Section 24 of the Hindu Marriage Act, 1955 (hereinafter called the 'Act') and Rs.5000/- have been awarded towards litigation expenses.

2. Learned counsel for the petitioner contended that the petitioner has been ordered to pay interim maintenance at the rate of

Rs.8000/- per month under Section 125 of the Code of Criminal Procedure, 1973 (hereafter called the 'Cr.P.C.') vide order dated 22.03.2014. He contended that the monthly salary of the petitioner is only Rs.20,070/-. He further contended that the learned trial Court has not ordered that the interim maintenance paid in the proceedings under Section 125 Cr.P.C. shall be adjustable against the amount of maintenance awarded under Section 24 of the Act. Thus, he contended that the impugned order is illegal.

3. On the other hand, learned counsel for the respondent contended that the remedies under Section 125 Cr.P.C. and Section 24 of the Act are separate remedies. The respondent-wife has right to claim the maintenance under both the provisions of law. Thus, he contended that there is no illegality in the impugned order.

4. I have duly considered the aforesaid contentions.

5. This fact is not disputed that the petition under Section 125 Cr.P.C. has been filed by respondent-wife Reena Saini and her minor child Yuvraj. They have been awarded the interim maintenance at the rate of Rs.4000/- per month each, *i.e.* total Rs.8000/- per month. In the impugned order, the learned Additional District Judge has awarded the maintenance *pendente lite* at the rate of Rs.7000/- per month to the respondent-wife under Section 24 of the Act. Learned Additional District Judge has not mentioned in the impugned order that the maintenance paid in the proceedings under Section 125 Cr.P.C. shall be adjustable, which should have been ordered. In case **Sudeep Chaudhary**

Vs. Radha Chaudhary, AIR 1999 SC 536, the Hon'ble Apex Court had laid down as under:-

“6.We are of the view that the High Court was in error. The amount awarded under Section 125 of the Cr.P.C. for maintenance was adjustable against the amount awarded in the matrimonial proceedings and was not to be given over and above the same. In the absence of the wife, we are, however not inclined to go into any detailed discussion of the law.”

6. In view of the aforesaid ratio of law laid down by the Hon'ble Apex Court, the amount of interim maintenance paid/to be paid in the proceedings under Section 125 Cr.P.C. shall be adjustable against the maintenance *pendente lite* awarded by the learned Additional District Judge vide impugned order under Section 24 of the Act.

7. The revision petition stands disposed of with the aforesaid clarification.

11.04.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**