

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

CR No. 8196 of 2015 O&M)

Date of decision: 17.03.2016

Mohan Lal

... Petitioner

versus

Seema Rani

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Manu Loona, Advocate for the petitioner.

K.Kannan, J. (ORAL)

The husband who had earlier obtained a decree for restitution filed a fresh petition for divorce on the ground that the wife had not complied with the terms of the decree. It appears that the wife filed an appeal against the decree for restitution before this Court and later withdrawn. The petition for divorce is filed with an application for interim maintenance. The Court has allowed for the same.

Interim maintenance is permissible in every matrimonial proceedings which is pending. All that is necessary for the Court to consider at the stage is whether the wife is in a position to maintain herself and whether her resources are not sufficient for maintenance. If the Court enters such finding that she is not capable of maintaining herself, it is irrelevant that the husband has a case justifying a claim for divorce or whether she is divorced or not. The husband is still liable to pay maintenance and the interim maintenance granted cannot be challenged on the ground that the decree for restitution was not complied with.

The civil revision petition is dismissed with above observations.

**(K.KANNAN)
JUDGE**

17.03.2016

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