

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8362 of 2014

Date of Decision: 18.03.2016

Sumeet Jain

... Petitioner(s)

Versus

Nitasha Jain

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Pankaj Jain, Advocate
for the petitioner(s).

Mr. Vijay K. Jindal, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 17.11.2014, passed by learned Additional District Judge, Chandigarh, whereby petitioner-husband was directed to make payment of interim maintenance allowance at the rate of ₹ 20,000/- per month and litigation expenses of ₹ 10,000/- on an application under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as "the Act").

As per learned counsel for the petitioner, the amount of interim maintenance is on the higher side because the income of

petitioner is ₹ 55,000/- per month and after deduction of the tax, his income comes to ₹ 49,500/-. Learned counsel for the petitioner submitted that petitioner has to make payment of fixed monthly expenses on account of payment of rent and loan installment and his net income is ₹ 25,772/-, whereas he has been directed to make payment of maintenance allowance at the rate of ₹ 20,000/- per month, which is on much higher side. More so, respondent herself is a highly qualified girl having qualification of LL.M. So, the present petition be accepted and the impugned order be modified. While arguing on this point, learned counsel for the petitioner placed reliance upon the judgment rendered by the Madras High Court in case ***Ramesh v. Amigeswari 2013(3) MLJ 892***, judgment rendered by the Karnataka High Court in ***E.Shanthi v. H.K.Vasudev 2005(4) RCR (Civil) 447*** and judgments rendered by the coordinate Benches of this Court in ***Dr. Reena Sahni v. Sandeep Sahni 2010(7) RCR (Civil) 1700*** and ***Aloka Chhabra v. Mani Chhabra 2013(2) PLR 243***.

Learned counsel for the respondent submitted that petitioner is a practicing lawyer and he is having handsome income. More so, vide impugned order, payment of maintenance allowance along with litigation expenses has been ordered. Apart from that, after looking at the status of the parties and living expenses in Chandigarh, payment of maintenance allowance is rather on the lower side. At any rate, present petition is not maintainable and the same be dismissed. On this point, learned counsel for the respondent placed reliance upon the judgment rendered by the Hon'ble Supreme Court in ***Shamima***

Farooqui v. Shahid Khan AIR 2015 Supreme Court 2025.

Having considered the matter and its entirety; gone through the judgments referred to and relied upon by learned counsel for the parties and taking the case from the admitted facts that relationship between the parties as husband and wife is not disputed. The parties are living separately. Both the parties are highly qualified but unfortunately they are in a matrimonial dispute. The income of present petitioner is ₹ 49,500/- per month after deductions of TDS of ₹ 5,500/-. Petitioner has taken the plea that he is required to make payment of fixed monthly expenses i.e. payment of rent and loan amount and his net income is ₹ 25,772/- and it is impossible for him to make payment of maintenance allowance at the rate of ₹ 20,000/- per month to respondent-wife. It is not disputed that present petition is challenge to the order passed on an application for interim maintenance allowance but at the same time the Court is to see status of the parties and their financial capacity to make the payment of maintenance allowance. To arrive at that conclusion, the Court is to see the material and evidence available on the file. Petitioner is having income of ₹ 49,500/- per month and if the payment on account of rent and loan installment is taken into consideration, the monthly income of the petitioner is ₹ 25,772/- only. At the same time, the Court would consider the aspect that the respondent wife shall also have to make some payment on account of rent etc. In such like cases, there is no hard and fast rule and the maintenance allowance at the rate of ₹

20,000/- is certainly on the higher side and the order passed by the Court below is modified to the extent that respondent wife shall be entitled to receive maintenance allowance at the rate of ₹ 15,000/- per month and litigation expenses to the tune of ₹ 10,000/- from the date of allowing application for grant of interim maintenance.

With the observations made above, present petition stands disposed of.

(Shekher Dhawan)
Judge

March 18, 2016
"DK"