

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-M-229-2016(O&M)

DATE OF DECISION:02.06.2016

MOHINDER PAL GUPTA

...Petitioner

Versus

NANDIKA JEEVAN MEHTA

...Respondent

**CORAM: HON'BLE MR. JUSTICE M.JEYAPPAUL.
HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Varun Kumar, Advocate,
for the appellant.

M.JEYAPPAUL, J.(ORAL)

CM-11177-CII-2016

There is a delay of 338 days in filing the appeal. It is effectively contended by the appellant that he had to approach this Court with the present appeal challenging the interim order passed under Section 24 of Hindu Marriage Act, 1955, as there has been a subsequent development which may disqualify the respondent from claiming maintenance.

Apart from the above development alleged by the appellant, we would like to determine the appeal on merits without standing on technicalities. Therefore, in the interest of justice, the application is allowed and the delay is condoned.

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The order passed by the trial Court would disclose that admittedly, the appellant is drawing a sum of Rs.10,000/- plus some commission per month as Gym Instructor. There was no evidence forthcoming to establish that the respondent-wife is doing any avocation.

Considering the financial resources of the appellant, in our considered view, the trial Court has rightly granted a sum of Rs.4,000/- per month towards maintenance pendente lite and Rs.11,000/- as litigation expenses.

Learned counsel appearing for the appellant vehemently submitted that the respondent has started living an adulterous life. In view thereof, it is his

submission that the respondent is not entitled to claim any maintenance from the appellant.

At the time when the application under Section 24 of the Hindu Marriage Act was taken up for disposal by the trial Court, it appears that no such plea was set up by the appellant. Even, if it is a subsequent development, the parties will have to necessarily adduce sufficient evidence before the trial Court to enable it to arrive at a conclusion as regards such an issue raised by the appellant herein.

After all, the application under Section 24 has been disposed of granting only maintenance pendente lite.

In the above facts and circumstances, confirming the impugned order passed by the trial Court, we direct the trial Court to take up the main petition under Section 13 of Hindu Marriage Act filed by the appellant and dispose of the same within one year from the date of receipt of this order. Appeal stands dismissed.

**CM-11178-CII-2016 &
CM-11179-CII-2016**

Since the main appeal has been disposed of, these applications have become infructuous and therefore, the same stand disposed of as such.

**(M. JEYAPPAUL)
JUDGE**

02.06.2016
Sunil Devi

**(RAJ MOHAN SINGH)
JUDGE**