

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

CR No.1279 of 2016

Date of Decision:10.03.2017

Devender

.....PETITIONER

Vs.

Mamta

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.S.P. Chahar, Advocate for the petitioner.

Mr.Abhinandan Pandhi, Advocate for the respondent.

RAMESHWAR SINGH MALIK J. (ORAL)

Present revision petition filed, under Article 227 of the Constitution of India, is directed against the order dated 09.12.2015 (Annexure P-1) passed by learned Additional District Judge, whereby application filed by the respondent-wife under Section 24 of the Hindu Marriage Act, 1955 ('the Act' for short), during the pendency of the divorce petition filed by the petitioner-husband, was allowed, directing the petitioner to pay Rs.7,500/- to the respondent-wife, as maintenance *pendente-lite*.

While issuing notice of motion on 14.03.2016, this Court passed the following order:-

Learned counsel for the petitioner mainly submitted that as per application under Section 24 of the Hindu Marriage Act, 1955, filed before the Court below, simple line was mentioned that income of present petitioner is Rs. 1,00,000/- but there is nothing in support of that, whereas petitioner is unemployed. However, relationship inter se parties is not disputed.

Let notice of motion be issued for 24.5.2016.

Meanwhile, petitioner shall continue to make payment of maintenance at the rate of Rs. 5,000/- per month till further orders.

Heard learned counsel for the parties.

Learned counsel for the petitioner, at the very outset, submits that although as per the impugned order dated 09.12.2015, respondent-wife would be entitled for the amount of maintenance only from the date of filing of the application under Section 24 of the Act, yet without entering into that controversy, petitioner-husband had already paid an amount of Rs.50,000/- and has brought a demand draft for an amount of Rs.45,000/- in the name of respondent-wife @ Rs.5,000/- per month for a period of 19 months i.e. from March, 2015 to October, 2016.

It has gone undisputed between the parties that the divorce petition filed by the petitioner-husband came to be dismissed by the learned Court of competent jurisdiction in the month of October, 2016. He further submits that since the petitioner-husband is not having any regular source of income and on the other hand, respondent-wife is a qualified and trained teacher, the amount of Rs.5,000/- per month, as already paid by the petitioner-husband, may be treated to be sufficient amount, modifying the impugned order, while partly allowing the present revision petition.

Bank draft dated 09.03.2017 in the name of respondent-wife for an amount of Rs.45,000/- brought by the petitioner-husband was handed over to learned counsel for the respondent-wife, however, he expressed his inability to accept the same, contending that he being a legal aid counsel, it would be practically difficult for him to send the said bank draft to the respondent-wife. In this view of the matter, learned counsel for the petitioner-husband undertakes to send said bank draft to the respondent-wife, at her address given in the present petition, by way of Registered A.D. Post by 15.03.2017.

So far as the sufficiency of the amount of Rs.5,000/- per month is concerned, this Court is of the considered opinion that keeping in view the totality of the facts and circumstances of the case, amount of Rs.5,000/- per month from the date of filing of divorce petition till dismissal thereof, would be sufficient and shall meet the ends of justice. In fact, as per the impugned order dated 09.12.2015, learned Court below has rightly awarded the amount of Rs.7,500/- per month from the date of application under Section 24 of the Act filed by the respondent-wife. Learned counsel for the parties are not aware about the date when application under Section 24 of the Act was filed by the respondent-wife. However, the stand taken by learned counsel on behalf of the petitioner-husband has been found very reasonable and justified, while ignoring the actual date of filing of the application, in making the payment of amount for maintenance right from the date of filing of the divorce petition itself. Under these circumstances, respondent-wife would be gainer and not loser.

In this view of the matter and without entering into further controversy, as to whether respondent-wife is also earning sufficient amount being a trained teacher or not, this Court is of the considered view that payment of total amount of Rs.95,000/- by the petitioner-husband to the respondent-wife will ensure meticulous compliance of the impugned order dated 09.12.2015.

No other arguments was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned order dated 09.12.2015 is liable to be modified, reducing the amount from Rs.7,500/- to 5,000/- per month. It is made clear that amount of Rs.50,000/- has already been paid and Rs.45,000/- by way of above said bank draft to be paid to the respondent-wife by the petitioner-husband,

would be towards the full and final payment. So far as the impugned order is concerned, neither the respondent-wife is entitled to claim anything more, nor the petitioner-husband would be entitled for any further relief in this regard.

Resultantly, with the abovesaid observations made, instant revision petition stands disposed of, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

10.03.2017

Anjal

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No