

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 120

Civil Revision No.1733 of 2017 (O & M)

Date of Decision: *March 10, 2017*

Jasminder Singh Randhawa

.... PETITIONER

VERSUS

Damandeep Kaur Gill & another

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. A.V.S. Barsat, Advocate, for the petitioner.

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Jaspal Singh, J

1. By virtue of the instant petition preferred under Article 227 of the Constitution of India, petitioner has sought setting aside of order dated January 23, 2017 passed by the Additional District Judge, Patiala, whereby while disposing of an application under Section 24 of the Hindu Marriage Act, 1955 (for short, 'Act') preferred by respondent No.1 – wife Damandeep Kaur Gill, petitioner – husband Jasminder Singh Randhawa has been directed to pay maintenance pendente lite @ ₹ 10,000/- per month to wife from the date of filing the application for herself and for maintenance of minor son – Veer Nidhan Singh as well as to pay litigation expenses to

the tune of ₹ 11,000/-.

2. While assailing the impugned order, it has been ebulliently argued by learned counsel for the petitioner that the impugned order is absolutely against the real facts as well as legal proposition of law and is not sustainable in the eyes of law. Infact, prior to filing of divorce petition by the petitioner – husband, respondent wife had left his company, taken away the minor son and started living with her parental family at Patiala (Punjab). As a counter blast to the divorce petition filed by the petitioner husband, respondent wife got registered an FIR No.54 dated June 23, 2015 under Sections 406, 498-A IPC, Women Police Station, Patiala against the petitioner as well as his family members levelling false allegations of dowry, illicit relations of petitioner and of physical & mental cruelty. However, during investigation of the case, father and sister of petitioner were found innocent and absolved of the charges. However, report under Section 173 Cr.P.C. was only presented against the petitioner and his mother. Moreover, report under Section 173 Cr.P.C. clearly depicts that respondent – wife is a qualified BDS doctor which is suggestive of the fact that she is fully capable to maintain herself and manage her day to day expenses whereas the petitioner is not in a capacity to pay maintenance pendente lite as well as litigation expenses as ordered by the trial court due to high cost of living.

3. Learned counsel for the petitioner has referred to the income tax return for the Assessment Years 2015-16, 2014-15 and 2013-14. Moreover, petitioner has to maintain his old aged parents besides paying premium towards insurance policy as well. Not only this, petitioner has already paid a huge amount of ₹ 6 lac to the respondent – wife. Thus, the impugned order being not sustainable in the eyes of law is liable to be set aside by way of acceptance of the instant revision petition.

4. After bestowing due consideration to the aforesaid submission made by learned counsel for the petitioner and appraisal of the documents on record and scrutinizing the impugned order, this Court does not find any legal and factual weight in the submissions made by learned counsel for the petitioner. Rather, this Court is of the considered view that the impugned order is absolutely in consonance with the evidence available on file and legal proposition applicable to the facts & circumstances of the case in hand.

5. Undisputably, the respondent is legally wedded wife of petitioner and after the marriage, they were blessed with a son namely Veer Nidhan Singh who is at present in the care and custody of respondent – wife. Though, petitioner has alleged that respondent is a qualified BDS doctor, running her clinic and earning to the tune of ₹ 1,50,000/- per month and further that she has already received her dowry articles and an amount of ₹ 6 lac, and is fully able to maintain herself yet the said contentions are not tenable as the petitioner has not placed on record any document to show that respondent has any source of income to maintain herself as well as minor school going child. Moreover, the petitioner – husband is an able person and he is legally as well as morally duty bound to maintain the respondent – wife as well as minor child. It is also pretty settled that wife is also entitled to the similar status and facilities which were being enjoyed by her prior to separation from her husband.

6. A perusal of income tax return of petitioner for the Assessment Year 2015-16, depicts his income as ₹ 2,73,590/-. Thus, grant of maintenance pendente lite @ ₹ 10,000/- per month to the respondent – wife and her minor son as well as litigation expenses to the tune of ₹

especially, in the modern days, when the price of each & every commodity of daily needs is touching the sky. Thus, taking the impugned order from any of the angles, this Court is of the considered view that it is absolutely in consonance with the evidence available on file and settled canons of law, and does not call for any interference by this Court.

7. In the light of aforesaid discussion, this Court is of the considered view that the instant petition is devoid of merits, and as such, the same is dismissed.

8. No order as to costs.

March 10, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No