

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

**CR No.2304 of 2016 (O&M).**  
**Date of Decision: 08.03.2017.**

Varun Parmar

....Petitioner.

**VERSUS**

Parul Suri

....Respondent.

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**CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.**

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**Present:** Ms. Kshitija Mittal, Advocate and  
Mr. Udai Singh Chauhan, Advocate for  
Mr. Pardeep Solath, Advocate for the petitioner.

Ms. Promila Nain, Advocate and  
Mr. Rajeev Anand, Advocate for the respondent.

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**SNEH PRASHAR, J.**

Aggrieved by the order dated 10.03.2016 passed by learned Additional District Judge, Panchkula, by virtue of which the petitioner-husband has been directed to pay Rs.40,000/- as maintenance pendente-lite to the respondent-wife from the date of filing of the application under Section 24 of the Hindu Marriage Act, 1955 (for short, 'the Act of 1955') in addition to the maintenance being awarded by the Army Authority, the petitioner had filed the instant revision petition.

Consequent to a marital dispute between the parties, the petitioner-husband had filed a petition under Section 13 of the Act of 1955 for dissolution of his marriage with the respondent which was solemnized on 28.05.2010. No child born out of the wedlock. During pendency of the

petition, the respondent-wife filed an application under Section 24 of the Act of 1955 claiming maintenance pendente-lite to the tune of Rs.50,000/- per month and litigation expenses to the tune of Rs.33,000/- from the petitioner. Learned Additional District Judge, Panchkula vide order dated 20.01.2016 held the respondent entitled to Rs.25,000/- as litigation expenses, but declined her prayer for maintenance pendente-lite. The respondent filed an application for review of the order dated 20.01.2016 alleging that the Court had wrongly observed that she was availing maintenance to the tune of 50% of pay and allowances of the petitioner and also availing facilities such as ration, CSD facility, free medical facility and other facilities at very low cost and in addition was enjoying army accommodation at the cost of her husband whereas she had actually been sanctioned 22% per month of the pay and allowances of the petitioner by the Army Authorities under Section 90(i) of the Army Act, 1950.

After hearing counsel for both the parties, learned Additional District Judge vide the impugned order dated 10.03.2016 reviewed his previous order and awarded Rs.15,000/- per month as maintenance pendente-lite to the respondent from the date of filing of the application in addition to the maintenance being awarded by the Army Authority. As indicated above, aggrieved by the order dated 10.03.2016, the instant revision petition was preferred by the petitioner.

The submissions made by Ms. Kshitija Mittal, Mr. Uday Singh Chauhan, learned counsel representing the petitioner and Ms. Promila Nain, Mr. Rajeev Anand, learned counsel representing the respondent have been heard.

Learned counsel for the petitioner argued that as per the

statement of the salary account of the petitioner, produced by her as Annexure-P7, the total salary being drawn by the petitioner is Rs.92,250/-. Twenty two (22) per cent of the monthly pay and allowances, being drawn by the petitioner, have been sanctioned as maintenance allowance to the respondent. Annexure-P8 contains the details of the maintenance allowance paid by PCDA (Pune) from salary of the petitioner. The amount deducted towards maintenance from the salary of August, 2016 was Rs.18,711/-. In addition to the said amount, the petitioner is also paying Rs.15,000/- towards maintenance and accommodation to the respondent in petition under Section 12 of the Prevention of Women from Domestic Violence Act, 2005 (for short, 'D.V. Act') filed by her. In that manner, as a consequence to the impugned order passed by learned trial Court under Section 24 of the Act of 1955, the total amount to be received by the petitioner towards monthly maintenance allowance would come out to Rs.48,711/- out of total salary of Rs.92,250/-. Since the Army Authorities have sanctioned 22% of the salary and allowances being drawn by the petitioner, the maintenance allowance to the respondent gets automatically increased with increase in the salary and allowances of the petitioner. Virtually more than 50% of the salary of the petitioner is being paid to the respondent towards her maintenance whereas the fact is that the respondent is a practicing Advocate and is earning independently which is more than the amount required by her for her maintenance etc. On the other hand, the petitioner is short service commissioned officer and needs to save some funds for securing his future and also for maintaining his old parents. Submitting that the impugned order passed by learned trial Court is completely erroneous, learned counsel

On the other hand, learned counsel for the respondent submits that out of the amount of Rs.15,000/- being paid by the petitioner under Section 12 of the D.V. Act, Rs.10,000/- is for the rent being paid by the respondent for her residence. Therefore, the maintenance allowance allowed to her by way of impugned order would be only the actual amount the respondent would get for her maintenance in addition to the amount being paid by the Army Authorities out of the salary of the petitioner. The maintenance allowance received by her is just sufficient to make her lead a respectable life and maintain a financial status equivalent to that of the husband. To support her argument, learned counsel relied upon **Jyotsna Sofat vs. Gaurav Sofat, 2011 AIR (Delhi) 112** and **Ashwani Mehta vs. Mrs. Vibha Mehta, 2012(5) R.C.R. (Criminal) 834.**

Indeed, as per the documents produced by the petitioner, his total salary was Rs.92,250/- in the month of August, 2016. It is not disputed by the respondent that she is being paid 22% of the salary and allowances of the petitioner as maintenance allowance which means that in case of increase in the salary of the petitioner, the maintenance allowance being paid to her will also get increased automatically. In the month of August, 2016, she received Rs.18,711/-. No document could be produced by her to controvert the said factum. In fact, as per details of the payments sent to her i.e. Annexure-P8, she had received Rs.19,293/- in October, 2015 and Rs.20,288/- in May, 2016 on account of arrears of dearness allowance paid to the petitioner. The total salary of the petitioner for the month of August, 2016 was Rs.92,250/- which included the deductions made towards income tax. It is further not a matter in dispute that the respondent is getting

in the petition under Section 12 of the D.V. Act. To controvert the argument of learned counsel for the respondent that out of the amount of Rs.15,000/- allowed by learned Magistrate, Rs.10,000/- is towards rental expenses borne by the respondent, counsel for the petitioner submitted that the respondent is residing with her parents at Panchkula and has not taken any separate house on rent. Be that as it may, the fact is that to take a house on rent for respondent is one of the counts on which a wife deserted by the husband would claim maintenance allowance in order to maintain herself.

There are no two thoughts on the proposition that the wife is entitled to a financial status equivalent to that of her husband, but at the same time the wife, who is well qualified, cannot incapacitate herself and sit idle just to claim maintenance from the husband. In response to the contention of the petitioner that the respondent is a practicing Advocate, the respondent in her affidavit has admitted that she is a law graduate but has denied that she is a practicing Advocate. Even if it is assumed for the sake of arguments that she is not enrolled as a practicing Advocate, though no document has been produced to prove the same, yet one cannot ignore the fact that making appropriate use of her qualification, the respondent can earn a good living for herself. She cannot be expected to sit idle only to claim hefty maintenance from the husband.

No doubt, a wife, ind destitute, is entitled to maintenance being such that she could live a reasonably comfortable life, but she cannot alone take away a major portion of the finances of the husband for her maintenance. As already discussed above, the respondent is already getting 22% of the salary and allowances of the petitioner under the order of the

which includes amount for rent for her residence by way of order of the Magistrate passed in the petition under Section 12 of the D.V. Act. Considering the fact that the total salary of the petitioner is Rs.92,250/- and the amount being paid as maintenance allowance comes to around Rs.34,000/- already being paid to the respondent by the petitioner, appears to be indeed adequate for her maintenance. As such, the order granting further Rs.15,000/- as maintenance pendente-lite to the respondent-wife under Section 24 of the Act of 1955 does not appear to be justified. However, the litigation expenses allowed by learned trial Court are increased to Rs.40,000/-.

Thus, the order dated 10.03.2016 passed by learned trial Court is set aside and the instant petition is allowed.

Since the main petition itself has been decided, all the civil miscellaneous applications stand disposed of.

**(SNEH PRASHAR)**  
**JUDGE**

**08.03.2017.**  
*jitender sharma*

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**