

CR No. 238 of 2017
DECIDED ON: JANUARY 30, 2017

.....PETITIONER

VERSUS

....RESPONDENT

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

JASPAL SINGH, J

Challenge in this revision petition is to the order dated November 22, 2016 (Annexure P-11) passed by learned Additional District Judge, Amritsar wherein, while disposing of an application under Section 24 of the Hindu Marriage Act, 1955 (for short 'Act') petitioner has been directed to pay maintenance pendente lite to the tune of ₹10,000/- per month to the respondent from the date of filing of application; besides to pay litigation expenses to the tune of ₹5,000/-.

The only contention of learned counsel for the petitioner is that the respondent-Sukhjinder Kaur is not the legally wedded wife of the petitioner. In fact, the marriage of respondent with petitioner is the second marriage. Earlier, she was married to Rajesh Pal Singh Bamhra who is still alive and she has not

obtained divorce from him so far. Thus, the second marriage of respondent with the petitioner during the subsistence of his first marriage with Rajesh Pal Singh Bamhra is null and void and as such, she cannot claim maintenance either under Section 24 of the Act nor under Section 125 of the Code of Criminal Procedure.

To buttress this contention learned counsel for the petitioner has relied upon the pronouncements of Hon'ble Apex Court rendered in the cases of **Bakulabai vs. Ganga Ram; 1988 (1) RCR (Criminal) 304, Savitaben Somabhai Bhatiya vs. State of Gujarat; 2005 (2) RCR (Criminal) 190 and Yamunabai Anantrao Adhav vs. Anantrao Shivram Adhav; 1988 (1) RCR (Criminal) 322.** While concluding his arguments learned counsel for the petitioner further contended that on this sole ground impugned order is not sustainable in the eyes of law and is liable to be set aside by way of acceptance of instant revision petition. Consequently, application moved by the respondent under Section 24 of the Act is liable to be dismissed.

This Court has given an anxious thought to the afore-said submissions made by learned counsel for the petitioner and does not find any legal and factual weight therein.

As far as the marriage of the petitioner with respondent is concerned the same is an undisputed fact. Though, it has been alleged by the petitioner that the marriage of respondent with him is the second marriage but there is a serious controversy with regard to the alleged first marriage of respondent with Rajesh Pal Singh Bamhra. The respondent has denied her marriage with Rajesh Pal Singh Bamhra. She has tried to explain that certain documents were prepared with regard to her marriage with Rajesh Pal Singh Bamhra, as she intended to settle in Kenya. The alleged marriage of respondent

with Rajesh Pal Singh Bamhra is a matter of evidence, at this stage no opinion can be expressed in this regard. As far as the legal proposition of law that the contract of second marriage during the subsistence of first marriage is concerned, undoubtedly the wife is not entitled to the maintenance but in the case in hand, it is yet to be proved or established that the respondent earlier married to Rajesh Pal Singh Bamhra prior to her marriage with the petitioner.

Thus, this Court does not find any infirmity or illegality in the impugned order. As such, it stands dismissed.

JANUARY 30, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*