

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 116

Civil Revision No.2631 of 2017 (O & M)

Date of Decision: April 19, 2017

Bhartinder Singh

..... PETITIONER

VERSUS

Paramjit Kaur

..... RESPONDENT

. . .

Civil Revision No.2635 of 2017 (O & M)

Bhartinder Singh

..... PETITIONER

VERSUS

Paramjit Kaur

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Rakesh Gupta, Advocate, for the petitioner.

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Jaspal Singh, J

1. By this common judgment, this Court intends to dispose of two revision petitions, referred to above, preferred by Bhartinder Singh, petitioner – husband challenging order dated March 20, 2017 passed by the Additional District Judge, Ludhiana while disposing of two different applications. One application moved by petitioner under Section 24 of the

lite and litigation expenses from the respondent – wife has been dismissed whereas another application moved under Section 24 of the Act preferred by the respondent – wife has been allowed directing the petitioner to pay ₹ 10,000/- per month as maintenance pendente lite from the date of application till final disposal of petition under Section 13 of the Act, besides payment of a sum of ₹ 15,000/- as litigation expenses.

2. Assailing the impugned orders, it has been submitted by learned counsel for the petitioner – husband that the same are absolutely against the evidence available on file and settled canons of law. Misappreciation of evidence as well as various submissions made in the applications, has resulted into miscarriage of justice. No doubt, marriage of petitioner was solemnized with respondent on March 01, 2009 at Gurudwara Sahib, Village Kohara, District Ludhiana and registration certificate was issued to this effect by the Registrar of Marriages, Ludhiana. However, the respondent – wife is permanent resident of U.K. and obtained a diploma from a recognized university and has good knowledge of computer and other various subjects. At the time of matrimonial alliance between the parties, it was assured by the respondent – wife and her family members that both the parties will reside in India in routine and in the meantime, they will make efforts to settle abroad. At that time, petitioner being a qualified Engineer was posted at Sonalika Company, Hoshiarpur. On the promises given by the respondent – wife, he resigned from the said job and went U.K. on June 10, 2010. He was granted U.K. Entrance Clearance Visa, on the basis of which, he could do job but he had to stay and work for a specific period in order to get permanent visa in that country on the ground of marriage to a lady of U.K. citizen. The petitioner joined a good job at U.K. after resigning from Sonalika Company but whatever

salary he was getting there, it was being directly deposited in the account of respondent – wife by the employer and during his stay, his entire account was operated upon by the respondent. However, due to conditions created by the respondent who refused to sponsor him for permanent settlement, the petitioner was constrained to leave U.K. and returned to India in May 2011. The respondent – wife did not bother and cared about his well-being. Even he also could not get any job on return in India. He also made efforts to resolve the dispute but the respondent and her family members remained adamant to the extent that in case he pays ₹ 1 crore to the respondent, only then, she would sponsor him for his settlement in U.K. Finding no other alternative, he preferred the petition under Section 24 of the Act seeking decree of divorce by way of dissolution of marriage. Since the petitioner was without any job and has no independent source of income, he preferred an application under Section 24 of the Act and it has been erroneously and illegally dismissed by the learned trial court, whereas on the basis of an application moved by the respondent – wife, he has been directed to pay maintenance pendente lite and litigation expenses. Grant of maintenance pendente lite as well as litigation expenses is absolutely wrong in the facts & circumstances of the case in hand, especially, when the petitioner – husband is without any job and has no source of income. He does not own any movable or immovable property whereas respondent – wife is a British Citizen and she being Diploma holder, has been provided with permanent job by U.K. Knitwear Limited. Even, Certificate (Annexure P-7) has also been issued to her by the said Company. Not only this, she is also being granted salary from the said Company. She has also sufficient funds in the shape of FDRs. Thus, in the given circumstances, she was not entitled to any maintenance pendente lite or litigation expenses. The petitioner is not in

a position to make the payment of maintenance pendente lite and litigation expenses awarded to the respondent – wife. Thus, impugned order(s) dated March 20, 2017 whereby application of respondent – wife under Section 24 of the Act was allowed, is liable to be set aside, whereas, another application moved by the petitioner under Section 24 of the Act seeking maintenance pendente lite deserved to be allowed.

3. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner and scanned the impugned orders but does not find any legal and factual substance.

4. It is an admitted fact that respondent is the legally wedded wife of the petitioner. The allegations and counter allegations raised by the parties are matter of evidence and much reliance cannot be placed thereupon while disposing of an application under Section 24 of the Act by the parties to the divorce petition. It is a clear cut stand of the respondent – wife that she is dependent upon her parents for her daily needs and expenses. The petitioner being husband of respondent is the legally and morally duty bound to maintain her. He is an able bodied person and is also a qualified Engineer. Earlier he had been working in Sonalika Company, Hoshiarpur. By doing any technical job or profession, he can earn ₹ 20,000/- per month and so. The trial court has rightly concluded so. There is nothing on the record to suggest that the respondent – wife is in a position to maintain herself or has sufficient means to earn her livelihood. Thus, this Court is of the considered view that trial court has rightly awarded maintenance pendente lite as well as litigation expenses to respondent while disposing of an application under Section 24 of the Act moved by the respondent – wife and declined similar application moved by the petitioner – husband. The

impugned orders, in the considered view of this Court, are legally and factually justified and call for no interference by this Court.

5. In the light of what has been discussed above, both the petitions are dismissed.

6. No order as to costs.

April 19, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No