

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

CR No.2701 of 2017 (O&M)

Date of decision: April 19, 2017

Tejinder Kaur

...Petitioner

Versus

Rattandeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioner.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition preferred under Article 227 of Constitution of India, petitioner has sought setting aside of the order dated 22nd March, 2017 (Annexure P-8) passed by Additional District Judge, Ludhiana whereby petition under Section 13 of Hindu Marriage Act (for brevity 'Act' only), has been adjourned for 21st April, 2017 with direction to the petitioner to file written statement without getting implemented its previous orders for striking off the defence on account of non-payment of the maintenance *pendente lite* awarded by the trial Court while disposing an application under Section 24 of the Act.

A perusal of the various interim orders passed by the trial Court reveals that the respondent-husband was directed to make the payment of arrears of the maintenance *pendente lite* and in the event of his failure to make the payment, the petition was to be disposed of summarily on account of non-payment of arrears of maintenance but subsequently, on 22nd March, 2017, the respondent came forward and tendered a sum of Rs.40,000/- in cash and four account payee cheques of Rs.12,500/- each, but the petitioner-

wife refused to accept the same.

The contention of learned counsel for the petitioner is that the direction for filing the written statement is contrary to the settled cannons of law because no direction can be given until and unless arrears of maintenance *pendente lite* are cleared by the husband.

Instant petition is disposed of with direction to the trial Court to first dispose of the application on merits after hearing both the parties with regard to dismissing of divorce petition on account of non-payment of the arrears of the maintenance which are still outstanding against the respondent-husband. However, he be afforded only single opportunity to make the payment for a period of two or three weeks maximum for clearance of the maintenance *pendente lite* and litigation expenses outstanding till the date fixed by the trial Court and in case the payment is not made, then pass an appropriate order in accordance with law.

Meanwhile, filing of the written statement in view of impugned order dated 4th March, 2017 shall remain stayed.

Since this order has been passed in the absence of respondent, if he feels so aggrieved, he shall be at liberty to approach this Court

April 19, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No