

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

CR-2973-2017 (O&M)

Date of decision: 28.09.2017

NEERAJ KUMAR

...Petitioner

Versus

KANCHAN BALA

...Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Kamal Grover, Advocate
for the petitioner.

Mr. A.K. Khunger, Advocate
for the respondent.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 07.01.2017 (Annexure P-1) passed by the Additional District Judge, Fazilka whereby application filed by the respondent/wife under Section 24 of the Hindu Marriage Act (in short 'the Act') during pendency of petition under Section 13 of the Act filed at the behest of the petitioner/husband has been allowed and the respondent has been awarded maintenance pendente lite @ Rs.20,000/- per month and litigation expenses to the tune of Rs.18,000/- with a rider that maintenance, if any, received by the respondent in any other proceedings shall be liable to be adjusted towards

maintenance awarded vide order impugned.

Counsel for the petitioner has challenged quantum of maintenance on the ground that net salary of the petitioner is Rs.32,849/-, therefore, maintenance assessed by the Court below is on higher side and liable to be reduced. Another submission made by counsel is that in proceedings under Section 125 Cr.P.C., the respondent was allowed interim maintenance @ Rs.14,000/- per month and the child born out of the wedlock was allowed Rs.4,000/- per month. As per information of the petitioner, maintenance allowed to the child has been enhanced to Rs.4500/- per month. In addition, it is argued that though the petitioner is not in possession of any document but the respondent/wife is gainfully employed and earning approximately Rs.20,000/- per month.

Counsel representing the respondent, on the other hand, would refute contention of counsel for the petitioner that the respondent is working and has a source of income. It is further submitted that the respondent is doing LLB from Ganga Nagar and there is no question of her being earning. According to counsel, as per information received by the respondent under RTI Act from the Cotton Corporation of India Limited (A Government of India Undertaking - Ministry of Textiles), gross income of the petitioner for the year 2016-17 is Rs.7,80,580/- out of which an amount of Rs.1,50,000/- is deducted, thus, carry-home salary of the petitioner is Rs.6,30,580/-.

I have heard counsel for the parties, perused the paper book,

the order impugned and salary slips of the petitioner for July, 2016 and January, 2017 (Annexure P3-colly).

Perusal of the salary slips would make it evident that gross salary of the petitioner was Rs.64,212/- in July, 2016 and Rs.67,234/- in January, 2017. Out of salary, the only statutory deduction is qua income tax to the tune of Rs.4333/- in July, 2016 and Rs.5399/- in January, 2017. The petitioner cannot derive any advantage of other deductions by contending that his net salary is approximately Rs.30,000/- per month, in order to escape his liability to pay adequate maintenance to his wife and the child. As per the settled position in law, the wife is entitled to enjoy the same amenities of life as she would have been had she been residing in the matrimonial home.

Taking into consideration income of the petitioner/husband, I find it difficult to accept contention of the petitioner that maintenance awarded by the Court below is on higher side or liable to be reduced. However, it is clarified that maintenance assessed under Section 24 of the Act would be taken as maintenance payable to the respondent as well as the child and the adjustment of maintenance payable in other proceedings would be made accordingly.

For the foregoing reasons, the petition fails and is accordingly dismissed leaving the parties to bear their own costs. However, in case the petitioner gets any proper information with regard to respondent/wife being working and earning, he shall be at liberty to file an appropriate application

before the Court below, under the changed circumstances and the same shall be decided by the Court, in accordance with law.

28.09.2017
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No