

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR No. 3291 of 2017(O&M)

Date of decision :03.07.2017

Aakash

.....Petitioner

Versus

Sushma

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Arvinder Arora, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 02.02.2017 passed by the learned Additional District Judge, Patiala, whereby the application filed by the respondent under Section 24 of the Hindu Marriage Act, 1955 for grant of maintenance *pendente lite* and litigation expenses has been allowed and petitioner has been directed to pay a sum of ₹ 5000/- per month as maintenance *pendente lite* to respondent and both the children from the date of the application. He has also been directed to pay a sum of ₹ 5000/- as one time litigation expenses.

2. Learned counsel for the petitioner contended that the petitioner was only a casual labourer. His income was not more than ₹ 5000/- per month. The learned trial Court has wrongly taken the income of the petitioner to be ₹ 10,000/- per month. He further contended that respondent herself is a trained tailor and is earning sufficient income to maintain herself. The labour work is not available to the petitioner for all the days. Thus, he pleaded that the amount of compensation awarded by the learned

trial Court is highly excessive.

3. I have duly considered the aforesaid contentions.

4. As per the averments in the application moved by the respondent-wife, the petitioner is an able bodied person. He is working as a contractor and is also running the Ration Depot as well as Karyana Store. He is also doing the business of property dealer and he earns ₹ 4 lac per month. In the reply filed by the petitioner to the aforesaid application, he has denied his financial status as pleaded by the respondent-wife. Rather, he pleaded that he is a labourer and even the labour work is not available on all the days. He is not running any Ration Depot as the said Ration Depot was in the name of his father and after his death, the same has been cancelled by the Competent Authority.

5. Admittedly, the respondent-wife has not placed on file any documentary evidence to establish the income of the petitioner. But, there is no denial to the fact that the petitioner is an able bodied person. He can sufficiently earn even by doing the labour work. It cannot be disputed that now a days even an unskilled labourer can earn ₹ 300-350/- per day. So, there is nothing wrong in the income of the petitioner taken by the learned trial Court to be ₹ 10,000/- to ₹ 12,000/- per month.

6. There is no material on record to show that the respondent-wife has any independent source to maintain herself. Thus, the petitioner was morally and legally bound to maintain his wife and children. The learned trial Court has awarded maintenance *pendente lite* at the rate of ₹ 5000/- per month for the respondent-wife and her two children, which cannot be stated to be excessive or on the higher side. Particularly, keeping in view the fact that two children born out of the wedlock between the petitioner and respondent are also residing with the respondent-wife.

7. Consequently, the impugned order does not suffers from any illegality or legal infirmity which can warrant any interference by this Court.

8. Resultantly, the present revision petition having no merits, is hereby dismissed.

03.07.2017

S.khan

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No