

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.4215 of 2017

Date of Decision: 20.07.2017

Rajinder Singh

... Petitioner

Versus

Amanjeet Kaur

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Bhriagu Dutt Sharma, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.

1. This is husband's petition calling in question an order passed on an application under Section 24 of the Hindu Marriage Act, 1955 ("1955 Act") in a divorce petition filed by him against the respondent-wife under Section 13 of the 1955 Act.

2. The couple married in January 2013 according to Sikh rites. The petitioner resides in United States of America while the respondent-wife lives in Jalandhar with her parents by force of circumstances. The learned Additional District Judge, Jalandhar (NRI Court) has awarded a sum of ₹20,000/- per month as interim maintenance from the date of application till decision of the petition. The order was pronounced on April 06, 2017. The wife was able to establish prima facie that she had no moveable or immoveable property in her name or source of income to maintain herself and thus deserves maintenance pendente lite.

3. It is argued by the learned counsel for the petitioner that his

client indeed resides in USA and had worked as a Manager in Petrol Pump but presently he is out of job. If that is so, then he did not disclose his source of current income and how much he earns to sustain a living for himself. Wife alleges that he runs a departmental store in USA and earns a lot of money.

4. Mr. Sharma appearing for the petitioner submits that the learned Additional District Judge, Jalandhar has introduced material information off the record from the internet that a Manager in a Petrol Pump in USA usually earns an average salary of more than ₹35,000 dollars (US) per year.

5. I find nothing wrong in accessing information from the Net in this digital age though no implicit reliance can be placed on information gathered from the Net or taken judicial notice of; but at the same time one cannot lose sight of the fact that the petitioner resides in USA and there is a presumption that he earns more than what he may need for himself unless he is on dole. He is enjoined to maintain his wife in own status and lifestyle in his adopted society. The argument is that in the order reasoning is based on conjectures and surmises and which does not impress me to scale down the maintenance or to nil. Footing average presumptive income per month is not a tall deal and when converted to Indian rupees comes to ₹20,000/- per month which is not a big sum of money in the rising prices of everyday needs in India. Husband has pious duty to support his wife in India. He has revealed nothing of his status to evoke equity in his favour to reduce the maintenance. We have presently no means to access his social position in the USA. There are scant disclosures in the pleadings in the reply to the application on truthful income from whatever source the petitioner does to

sustain himself. The learned Additional District Judge, Jalandhar has gone by rule of thumb on income and committed no palpable error to help herself with data and has in fact reacted within the law of pleadings; that what is not rebutted by unimpeachable evidence must rest in favour of the claimant insisting that her assessment of the worth of her husband was not wide off the mark. It is not for this Court to be a penny-pincher only for the sake of interference.

6. Therefore, in the facts and circumstances of the case, I would stoutly refuse to exercise supervisory jurisdiction in its limited power of superintendence over the discretionary order passed, so long as discretion has been exercised reasonably and judiciously to serve the ends of justice in the present day context where even the prices of essential commodities are sky rocketing and presently in a GST regime for a hapless wife where even ice cream suffers 18% tax and if spiced with chocolate is exigible to 28% of the basic market retail price (MRP).

7. I find no merit in this petition worthy of interference under Article 227 of the Constitution and accordingly the same is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

20.07.2017
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Whether speaking/reasoned Yes

Whether reportable Yes