

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

**CR No.4645 of 2017(O&M)
Date of Decision: 07.11.2017**

Ramesh Kumar

.....Petitioner

Versus

Mangli Rani @ Anita

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Mange Ram Sharma, Advocate and
Mr. Pankaj Sharma, Advocate
for the petitioner.

Mr. Sandeep Goyal, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 29.04.2017 passed by Additional District Judge, Kaithal, vide which application under Section 24 of the Hindu Marriage Act preferred by the respondent was disposed of thereby granting maintenance allowance to the tune of Rs.1500/- per month in favour of the respondent during pendency of the petition under Section 13 of the Hindu Marriage Act.

[2]. The marriage between the parties was solemnized on 05.01.2002. Out of this wedlock, two sons namely Sawan and Sanam took birth. Both the sons are being brought up by the petitioner/husband. Both the sons are studying in the school. Respondent/wife is serving as a peon in Punjab National Bank.

Allegations were made by the petitioner/husband in respect of unchastity of the respondent/wife as she has eloped with one Sushil @ Deepak of village Uplana, Tehsil Assandh, District Karnal on 15.05.2015. FIR No.68 dated 21.05.2015 was got registered under Section 365 IPC.

[3]. Petitioner also alleged that the respondent/wife executed an affidavit dated 31.08.2015, wherein respondent/wife admitted that she went her own on 15.05.2015 and in future, she will remain in the company of her children and husband. Petitioner is serving as a labourer in the Municipal Committee, Pundri.

[4]. At the stage of deciding the application under Section 24 of the Hindu Marriage Act, no such firm finding of fact has been made in respect of accusation and defence of the parties. Probate value of the allegations would be tested on the strength of evidence to be led by the parties during the main proceedings. *Prima facie*, it can be looked into that the factum of respondent/wife serving as a peon in a nationalized bank has not been denied by the respondent/wife. Both the minor sons are in the custody of the petitioner/husband and he is not serving on regular basis except doing work of labourer in the Municipal Committee, Pundri. Monthly salary of respondent/wife on the post of Peon in a nationalized bank cannot be presumed

to be on lower side, than the monthly income of the petitioner/husband. Grant of any maintenance from the income of the petitioner/husband in the present set of circumstances would be telling blow on the financial prospects of the petitioner/husband, particularly in view of the fact that he has an onerous responsibility of bringing up two minor sons.

[5]. Allegations of unchastity and admission of the respondent/wife in the form of executing affidavit are not relevant at this stage to cast aspersion on the character of the respondent/wife, but these allegations would be tested at the threshold of the evidence to be led by the parties at the relevant stage.

[6]. In my considered opinion, in view of gainful regular employment of the respondent/wife in Punjab National Bank, she is not entitled to any maintenance from the petitioner/husband who is working as a labourer in the Municipal Committee and has responsibility of bringing up his minor sons. The claim of maintenance cannot be utilized to be a profitable act so as to impede any likelihood of reconciliation in future. It is true that the wife is entitled to live life as per status of the husband. Grant of maintenance is always preferred in order to prevent vagaries and destitution.

[7]. In view of conceded position, no such phenomenon

feature exists in the present case. Respondent/wife is found to be earning more than the earnings of the petitioner/husband, therefore, I deem it appropriate to set aside the impugned order by dismissing the application under Section 24 of the Hindu Marriage Act. Consequently, impugned order dated 29.04.2017 passed by Additional District Judge, Kaithal is set aside. Revision petition is accordingly allowed.

07.11.2017	(RAJ MOHAN SINGH)
prince	JUDGE
Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No