

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

**CR No.5257 of 2016
Date of Decision-05.09.2017**

Kuldeep Singh ... Petitioner

Versus

Kamaljeet Kaur ... Respondent

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

Present: Ms. Ruchi Sekhri, Advocate
for the petitioner.

None for the respondent.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 02.07.2016 passed by Additional District Judge, Jalandhar, whereby application under Section 24 of the Hindu Marriage Act filed by the respondent was allowed along with grant of litigation expenses.

[2]. Respondent was tried for the murder of her son i.e. son of the petitioner in case bearing FIR No.140 dated 19.12.2010 under Section 302 read with Section 34 IPC, Police Station Nakodar. Respondent and Satbir Singh were convicted and sentenced to undergo rigorous imprisonment for a term of life and to pay fine of Rs.1000/- each under Sections 120-B/302 IPC. Both the sentences were ordered to run concurrently.

[3]. The allegations were that son of the petitioner namely Satinderjit Singh was poisoned by the respondent as she was having illicit relations with Satbir Singh in the absence of the petitioner. Respondent and Satbir Singh had a doubt that Satinderjit Singh may not disclose this fact to his father i.e. petitioner, therefore they had entered into a conspiracy for killing Satinderjit Singh.

[4]. During the trial of the criminal case, guilt of the respondent and her paramour was found to the hilt and they were accordingly convicted and sentenced in the manner as disclosed earlier. At the relevant stage, the petitioner was living in Italy.

[5]. Petitioner filed a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage between the parties. During pendency of the said petition, respondent filed an application/petition under Section 24 of the Hindu Marriage Act.

[6]. The said application was contested by the petitioner on the ground that the respondent had become unchaste and therefore, she was not entitled to any maintenance either under Section 24 of Hindu Marriage Act or under Section 18 of the Hindu Adoption and Maintenance Act. On the allegations of unchastity, the respondent had already been convicted. Since the respondent was found to be having illicit relations with co-accused Satbir Singh and has not remained chaste, therefore, she was not entitled to any maintenance under Hindu Marriage Act.

[7]. Trial Court awarded an amount of Rs.10,000/- per month as maintenance *pendente lite* and an amount of Rs.15,000/- as litigation expenses. Since the respondent is in custody, therefore, her entitlement has been curtailed to Rs.5000/- per month during her period of custody and on her release, she would be entitled to Rs.10,000/- per month maintenance as awarded by the Additional District Judge, Jalandhar.

[8]. None has appeared on behalf of the respondent despite her service in jail. Office report dated 15.10.2016 is suggestive of the fact that notice issued to the respondent was duly served. The respondent has been convicted and sentenced for the murder of son of the parties and is undergoing sentence in the jail. The petition for divorce was filed only after her conviction by the Court of Sessions, therefore, in such situation, provision in terms of Section 24 of the Hindu Marriage Act cannot be treated to be mandatory in view of guilt of the respondent under Section 302 IPC in collusion with her paramour. It was proved that the respondent was living in infidelity with her own sweet will. Even in terms of Section 18(3) of the Hindu Adoption and Maintenance Act and Section 25 of the Hindu Marriage Act, the maintenance can be denied to a lady who has become unchaste. The factum of respondent being unchaste has been proved by way of her conviction along with her paramour and above all, the allegations were of killing of her own son in order to screen her illegitimate relationship with her paramour.

[9]. In view of material on record, I find that the impugned order granting maintenance to the respondent is on wrong premise. Therefore, the order dated 02.07.2016 passed by Additional District Judge, Jalandhar, is set aside. Application under Section 24 of the Hindu Marriage Act filed by the respondent is dismissed in toto. It has come on record that the appeal against judgment of conviction and order of sentence is pending. If the respondent is acquitted of the charges in appeal, she would be entitled to seek grant of maintenance *pendente lite* or permanent alimony whatever the situation may be at that time in accordance with law. However, the present order would not create any impediment in the way of any reconciliatory mechanism between the parties (if any).

(RAJ MOHAN SINGH)
JUDGE

05.09.2017
Prince

Whether reasoned/speaking	Yes/No
Whether Reportable	Yes/No