

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7367-2012 (O&M)

Date of Decision:02.03.2017

Pardeep Kumar

.....Petitioner

Versus

Rekha Devi

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Sandeep Goyal, Advocate,
for the petitioner.

Mr.Nishant Arya, Advocate,
for Mr.S.K.Verma, Advocate,
for the respondent.

RAMESHWAR SINGH MALIK, J.(Oral)

Present revision petition is directed against the order dated 07.06.2012 (Annexure P-6) passed by the learned matrimonial Court, whereby application of the respondent-wife filed under Section 24 of the Hindu Marriage Act, 1955 (for short "the Act"), during the pendency of her divorce petition filed under Section 13 of the Act, was allowed, directing the petitioner-husband to pay an amount of ₹2,000/- per month as maintenance pendente lite to the respondent-wife and also ₹2,200/- as litigation expenses.

While issuing notice of motion on 22.01.2013, following order was passed by this Court:-

*"The petition is against an order of interim maintenance awarded by the trial Court for the wife during the pendency of matrimonial proceedings against the husband.
The contention of the husband is that he has lost eye sight*

in both of his eyes in a motor accident. He is himself without means and dependent on his parents.

Notice of motion for 8.3.2013.

Interim stay of operation of the order of the Court below.”

Heard learned counsel for the parties.

A bare perusal of the Disability Certificate dated 12.12.2012 issued by Civil Surgeon, Kaithal, on the basis of report of the Medical Board, makes it crystal clear that the petitioner-husband is 100% disabled, because he has lost his vision in both of his eyes, due to a motor accident. Under these circumstances, it was least expected from the respondent-wife to be more sympathetic towards her husband and to take care of him. However, when the petitioner-husband needed most the company of respondent-wife, she left the petitioner-husband in the lurch, at the mercy of his other family members.

Respondent-wife filed the divorce petition under Section 13 of the Act against the petitioner-husband. During the pendency of the divorce petition, she filed the application under Section 24 of the Act, seeking maintenance pendente lite which was granted by the learned matrimonial Court vide its impugned order dated 07.06.2012 (Annexure P-6). It has gone undisputed before this Court that divorce petition filed by the respondent-wife came to be dismissed later on. She has already filed her matrimonial appeal before this Court bearing FAO-M-390 of 2015.

Learned counsel for the respondent-wife submits that the matrimonial appeal has been admitted for regular hearing. Under these peculiar facts and circumstances of the case, this Court is of the considered opinion that the respondent-wife is not entitled for any maintenance from the petitioner-husband, either on facts or in law as well as in equity. On the

other hand, it was expected from the respondent-wife that she being an able-bodied person would have and should have maintained her husband-petitioner herein.

Respondent-wife has been found running away from her social, legal as well as moral duty. When the nature was not so kind to the husband rendering him a blind person, how the wife could forget that in our society woman is also known as goddess of kindness. Such a litigant does not deserve any sympathy from the Court as well. Having said that, this Court feels no hesitation to conclude that since the learned matrimonial Court failed to appreciate the peculiar facts and circumstances of the case as noticed here-in-above, particularly conduct of the respondent-wife, the impugned order cannot be sustained.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality and perversity, it cannot be upheld. Accordingly, impugned order 07.06.2012 is hereby set aside. Present revision petition deserves to be accepted.

Resultantly, with the above-said observations made, instant revision petition stands allowed, however, with no order as to costs.

March 02, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No