

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

Crl. Misc No. M-6532 of 2015

Date of decision:- 12.05.2017

Ajaib Singh

...Petitioner

versus

Sukhpal Kaur

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. Malkeet Singh Balianwali, Advocate
for the respondent.

RITU BAHRI J.(Oral)

Petitioner is challenging order dated 09.12.2013 (Annexure P-3) passed by the learned Judicial Magistrate, 1st Class, Bathinda and order dated 10.02.2015 passed by learned Addl. Sessions Judge, Bathinda.

Respondent-wife was married to petitioner in the year 1987 and out of the wedlock, one daughter was born. Thereafter, petitioner deserted respondent-wife.

Respondent-wife then filed a suit for maintenance and permanent injunction under Section 18 and 20 of Hindu Adoption and Maintenance Act, 1956, which was decreed in favour of the respondent vide judgment dated 30.11.2011 (Annexure P-1) and petitioner was directed to pay a maintenance to the tune of Rs.4000/- per month to respondent No. 1 and Rs.2500/- to daughter till the date of her marriage and also to pay Rs.2.5 lacs to respondent-wife.

Aggrieved against the same, petitioner preferred an appeal, which was dismissed on 18.12.2014 (Annexure P-2).

Thereafter, respondent-wife filed another application under

Section 12 of Protection of Women from Domestic Violence Act, 2005 for maintenance. The learned Judicial Magistrate vide impugned order dated 09.12.2013 (Annexure P-3) directed the petitioner to pay an amount of Rs.1500 per month on account of rent and an amount of Rs.2000/- to respondent No. 1 along with an amount of Rs.1 lacs to respondent No., 1 on account of the expenses incurred by her on the marriage of daughter of the petitioner.

Respondent No. 1 filed an appeal against the above said order dated 09.12.2013 and the learned Addl. Sessions Judge vide order dated 10.02.2015 enhanced the maintenance from Rs.2000/- to Rs.6000/- and amount of Rs.1500/- to Rs.4500/- per month.

A bare perusal of the impugned orders shows that the interim maintenance has rightly been awarded to the respondent-wife and her daughter, by appreciating the evidence on record, as the petitioner was held to be owner of agricultural land measuring 1 ½ acres and has also share amount to land measuring 78 kanals. Further petitioner has not put in appearance to controvert the claim of applicant-wife.

The only question for consideration before this Court whether the respondent is entitled to get in a proceedings under Section 18 and 20 of Hindu Adoption and Maintenance Act, 1956 and also under the Domestic Violence Act.

This aspect has been considered in the judgment of this Court in a case of ***Kanwarjit Kaur vs. Ajit Singh, 2012(4) Law Herald 3118*** wherein it was held that wife is not entitled to doubt maintenance. If she has already been awarded maintenance under Section 125 that would merge with the maintenance pendente lite awarded by the trial Court invoking the

provisions under Section 24 of the Hindu Marriage Act.

Thus, the petition is dismissed on merits. However, the maintenance granted to the respondent-wife under under Section 18 and 20 of Hindu Adoption and Maintenance Act, 1956 shall be adjusted while calculating arrears under the Domestic Violence Act only with regard to respondent-wife.

May 12, 2017
G Arora

(*RITU BAHRI*)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>