

FAO No. 84 of 2017 (O&M)

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

FAO No. 84 of 2017 (O&M)

Date of Decision: January 16, 2017

Anup Gupta

...Appellant

Versus

Charu Gupta

...Respondent

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Bhim Singh, Advocate
for the appellant.

M.JEYAPPAUL, J.

CM No.419-CII of 2017

Exemption as sought for from filing the fair typed copy of the
impugned order is granted.

The application stands disposed of accordingly.

FAO No. 84 of 2017

Appellant-husband was directed to pay maintenance at the
rate of ₹ 7,000/- per month from 19.01.2016 besides litigation expenses to
the tune of ₹ 2,200/- by virtue of the order passed by the trial Court under
section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as
'HMA'), on 19.01.2016. The said order was challenged before this Court
by the appellant-husband by filing FAO No.1177 of 2016. The
Coordinate Bench of this Court having considered the said challenge

made by the appellant-husband made a categoric observation that the Bench was not inclined to interfere with maintenance *pendente lite* and litigation expenses ordered by the trial Court on 16.02.2016.

The main case filed by the wife-Charu Gupta under Section 13 of the HMA for dissolution of marriage came up for hearing on 02.01.2017 before the trial Court. The trial Court having noted the absence of the husband and non-payment of arrears of maintenance, directed him to lead evidence on his side and also bring the entire arrears of maintenance on 18.01.2017. The above order passed by the trial Court on 02.01.2017 is under challenge in the present appeal.

Learned counsel appearing for the appellant-husband vehemently submitted that on 02.01.2017, an application for summoning the records pertaining to her employment and the salary account with GeTS Holidays Pvt. Ltd. and an application to recall the order dated 19.01.2016 passed under Section 24 of the HMA filed by the appellant were filed before the trial Court but the same had not been considered by it before passing the impugned order. It was submitted by the counsel appearing for the appellant that such a direction issued by the trial Court on 02.01.2017, without taking into consideration the above two applications filed by the appellant on the same day before the trial Court, is improper.

The application under Section 24 of the HMA was disposed of by the trial Court only after affording sufficient opportunities to the

appellant-husband. Further, the quantum of maintenance and the litigation expenses fixed by the trial Court under Section 24 of the HMA was put to challenge before this Court and this Court refused to interfere with the above quantum of maintenance and litigation expenses fixed by the trial Court.

It is true that two applications, one for summoning the records relating to the employment and salary account of the respondent-wife and another application for recalling of the order dated 19.01.2016 passed under Section 24 of the HMA had been reportedly filed by the appellant on 02.01.2017 before the trial Court. It is also true that no reference was made in the impugned order passed by the trial Court as regards the above two applications filed by the appellant. But it is to be noted that the order passed by the trial Court under Section 24 of the HMA and confirmed by the High Court cannot be recalled all of a sudden. Firstly the application filed praying for summoning the records relating to the employment of the respondent-wife and the salary account have to be heard and disposed of and thereafter, the trial Court will have to take up and dispose of the application seeking recalling of the order passed under Section 24 of the HMA. The respondent-wife who had originally demonstrated before the trial Court that she had no resources to maintain herself cannot be left in the lurch till appropriate order is passed on the application praying for recalling the order dated 19.01.2016.

In our considered view, the trial Court has rightly directed the

appellant to pay the arrears of maintenance and litigation expenses on the date fixed for cross-examination of the respondent-wife.

The appeal, therefore, stands dismissed.

(M. JEYAPPAUL)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

January 16, 2017
Harish

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