

**FAO-M-185-2017 (O&M)**

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

**106**

**FAO-M-185-2017 (O&M).  
Decided on: August 10, 2017.**

**Satbir Singh**

**.. Appellant**

**VERSUS**

**Jasvir Kaur**

**.. Respondent**

**\* \* \***

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

**\* \* \***

**PRESENT Mr.Amardeep Singh Gill, Advocate,  
for the appellant.**

**M.M.S. BEDI, J. (ORAL)**

The divorce petition filed by the appellant-husband was allowed by the High Court in appeal and was later on affirmed by Hon'ble the Supreme Court. However, permanent alimony having not been determined for the benefit of his wife, Hon'ble the Apex Court had issued directions to determine the permanent alimony.

Against the claim of a sum of Rs.15 lac as permanent

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alimony raised by the respondent-wife, vide impugned order dated 21.4.2017, the learned District Judge, Jalandhar, has awarded lump sum amount of Rs.7 lac as permanent alimony to the respondent-wife which is the amount determined under Section 25 of the Hindu Marriage Act. Various sources of income; the circumstances and the status of appellant-husband have been considered before determining the lump sum amount of Rs.7 lac to be paid to the respondent as permanent alimony.

Main grievance of the learned counsel for the appellant is that the respondent-wife has been granted maintenance @ Rs.10,000/- per month in proceedings under Section 125 Cr.P.C. which is also subject matter of the revision petition/appeal pending before the Sessions Court.

It is urged by the counsel for the appellant that the respondent-wife cannot be granted maintenance under Section 125 Cr.P.C. in the capacity as divorced wife along with lump sum amount of Rs.7 lac as permanent alimony. He claims that the amount/ arrears of maintenance in proceedings under Section 125 Cr.P.C. have to be adjusted against the permanent alimony granted to the respondent-wife under Section 25 of the Hindu Marriage Act.

We have heard the learned counsel for the appellant, at length, and we are of the opinion that the relief which has been granted to the respondent-wife vide impugned order is only under Section 25 of the Hindu Marriage Act. So far as the observation in para 39 of the judgment to the effect that a sum of Rs.7 lac in lump sum would be in addition to maintenance already granted to the respondent-wife under Section 125 Cr.P.C. is concerned, we do not find any infirmity in the same as the amount

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determined in proceedings under Section 125 Cr.P.C. is independent of the amount determined as permanent alimony for the wife under Section 25 of the Hindu Marriage Act. As the amount determined by the Magistrate in proceedings under Section 125 Cr.P.C. is the subject matter of the revision petition/appeal pending before the Sessions Court, it will always be open to the Sessions Court to determine the legality and propriety of the order and to modify, reduce or affirm the quantum determined by the Magistrate under Section 125 Cr.P.C. The award of lump sum alimony in proceedings under Section 25 of the Hindu Marriage Act, is not an absolute bar for claiming maintenance under Section 125 Cr.P.C. However, it is always open to a Court holding proceedings under Section 125 Cr.P.C. to consider the circumstances of wife having received permanent alimony as one of the circumstance to determine the quantum of maintenance in proceedings under Section 125 Cr.P.C. It is observed that any observation made in the impugned order will not affect the adjudication of the revision petition/appeal pending before the Sessions Court against the quantum of maintenance determined by the Magistrate under Section 125 Cr.P.C. The scope of interference in the permanent alimony determined under Section 25 of the Hindu Marriage Act is limited and meagre. Even otherwise on going through the impugned order we do not find any patent illegality pertaining to jurisdiction or determination of the quantum by applying the requisite parameters. The only relief which can be granted to the appellant is that it will be open to the executing Court to fix the installments for payment of permanent alimony subject to his depositing minimum amount of Rs.3 lac at the time of seeking payment by way of installments before the executing

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Court.

But for the above observations, the appeal is dismissed.

**(M.M.S. BEDI)**  
**JUDGE**

**August 10, 2017.**  
**raj arora**

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**

|                             |          |
|-----------------------------|----------|
| Whether speaking / reasoned | Yes / No |
| Whether reportable          | Yes / No |