

AVTAR SINGH
V/S
GAGANDEEP @ NEELAM

Present: Mr. Aakash Singla, Advocate,
for the applicant-respondent.

Mr. Parveen Sharma, Advocate, for
Mr. Pankaj Bali, Advocate, for the non-applicant/appellant.

Despite a number of opportunities having been granted to the appellant-husband to file reply to application under Section 24 of the Hindu Marriage Act, no reply has been filed.

Proxy counsel for the non-applicant/appellant has prayed for another opportunity to file reply.

Taking into consideration the fact that sufficient number of opportunities have already been given to file reply, we do not find any sufficient reason to defer the application for purpose of reply.

A similar application under Section 24 of the Hindu Marriage Act was decided during pendency of the proceedings before the lower Court and a sum of Rs.4,000/- per month was awarded in the year 2012 when the husband was earning a sum of Rs.20,000/-. The said amount had been raised in a revision petition by the High Court to Rs.6,000/-. CMM-174-2013 for grant of interim maintenance was disposed of vide order dated 02.02.2015 wherein a sum of Rs.6,000/- was determined as maintenance pendente lite.

Through instant application, it has been claimed that earlier the income of the husband had not been correctly stated as the husband was

earning sum of Rs.37,800/- per month. It has been claimed that the husband is earning a sum of Rs.45,560/- as he is working on the permanent post of Head Constable in Punjab Police serving at Khanna and residing in his own house.

The applicant/respondent-wife claims that she has got no source of income and is living at the mercy of her old aged parents. Earlier two sons were residing with the husband but now they have started residing with applicant-mother. She has claimed that a daughter born out of the wedlock, is also residing with the applicant. She claims a sum of Rs.33,000/- per month for herself as well as for maintenance of the other children. It appears that a sum of Rs.8,000/- per month, has been assessed as interim maintenance in proceedings under Section 125 Cr.P.C for the applicant-wife whereas a sum of Rs.5,000/- has been assessed for the daughter.

Salary certificate dated 17.08.2016 has been made available under the signatures of Incharge Information Cell, District Police, Khanna indicating that gross salary of the husband is Rs.48,117/- and after deductions, the net salary was Rs.33,589/-.

Taking into consideration all the above circumstances, we are of the considered opinion that irrespective of the rights of the children born out of the wedlock to claim any maintenance, the applicant-respondent is certainly entitled to a minimum sum of Rs.10,000/- per month as maintenance pendente lite in order to survive and maintain herself. The said amount shall be liable to be paid by the non-applicant/appellant to the applicant-respondent with effect from the date of application i.e. April, 2016.

It is made clear that if any amount has been paid after April, 2016 in proceedings under Section 125 Cr.P.C to the applicant/respondent-wife as per the determination of the Court concerned, the amount already paid will be deducted while calculating and making payment of the arrears of maintenance pendente lite.

Nothing said in this order will prejudice the right of the applicant/respondent-wife to seek execution of the order granting maintenance in proceedings under Section 125 Cr.P.C.

Litigation expenses are assessed as Rs.30,000/-. The sum of Rs.15,000/- already paid, will be adjustable against the said amount.

The application is allowed in above terms.

For payment of arrears of maintenance pendente lite, adjourned to 14.11.2017.

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

August 17, 2017.
harsha

**(AUGUSTINE GEORGE MASIH)
JUDGE**