

CMM-125-2015**IN FAO-M-415-2013****SUMAN V/S GAURAV SHARMA**

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Present: Ms. Jigyasa Tanwar, Advocate for
Ms. Mayuri Lakhanpal Kalia, Advocate
for the applicant-appellant.

Mr. Sadiq Ali Khan, Advocate
for the respondent-husband.

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This order shall dispose of application dated 14.07.2015 filed by the applicant-wife under Section 24 of the Hindu Marriage Act claiming maintenance *pendente lite* at the rate of ₹ 25,000/- per month and ₹ 20,000/- for litigation expenses.

It is averred in the application that she does not have any source of income, whereas, respondent-husband is a man of means having various moveable and immovable properties in district Kapurthala. The respondent-husband is stated to be doing the business of electronic goods/auto parts under the name and style of M/s Sharma Electronics, Main Bazaar, Kapurthala, and is earning more than ₹ 60,000/- per month.

In the reply filed by the respondent-husband, he has stated that the applicant-wife has not approached the Court with clean hands and on account of arrogance and high tempered mind, she has been given divorce by the respondent. He has admitted his income to the extent of ₹ 3500/- per month from the shop. He further stated that the said amount is being given to him by his father for helping him in auto electrical repair shop situated on Mandi Road Kapurthala. It has been informed that the son born out of the wedlock is being maintained by the respondent-husband.

It appears that there has been an apparent concealment of the income by the respondent. He has neither come forward with any income tax return nor has he placed on record any document indicating that he is earning meager amount of ₹ 3500/- per month as salary given by his father.

Adverting to the process of estimation in such situation, we are of the considered opinion that the respondent is an able bodied person as he is admittedly connected with working of auto electrical repair and presumed to be earning an amount comparable to a person earning minimum wages as fixed by the State.

On asking of the Court, it has been informed that regarding the appellant-wife had been awarded maintenance *pendente lite* under Section 24 of the Hindu Marriage Act before the trial Court to the extent of ₹ 1200/- per month.

The application in hand is allowed taking into consideration the earning capacity of the respondent-husband, he being an able bodied person and the applicant-wife being unable to earn anything. A sum of ₹ 3,000/- per month as maintenance *pendente lite* is considered to be just and equitable in order to prevent the starvation of the applicant-wife during pendency of the present proceedings, which shall be payable with effect from the date of application i.e. July, 2015. Litigation expenses are assessed at ₹ 20,000/-.

For payment of entire arrears of maintenance *pendente lite* at the rate determined above calculated till 31.01.2018 and litigation expenses, to come up on 22.01.2018. The main appeal will be fixed for hearing after payment of entire arrears.

At this stage, counsel for the applicant-wife submits that earlier arrears have not been paid.

It will be open to the applicant-wife to claim arrears, if any, till final disposal of the petition before the lower Court, by preferring appropriate proceedings.

(M.M.S. BEDI)
JUDGE

20th November, 2017
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE