

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

(220)

FAO-M-254-2015

Decided on: February 20, 2018.

Sunil

.... Appellant

Versus

Sonu

..... Respondent

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. Mukesh Yadav, Advocate, for the appellant.

None for the respondent.

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

Appellant-husband Sunil filed a petition for divorce against the respondent-wife. During pendency of the petition, an application under Section 24 of the Hindu Marriage Act was filed by the respondent-wife which was allowed on 03.01.2014 but on account of non-payment of the arrears of maintenance calculated @ Rs.2000/- per month with effect from the date of application and litigation expenses of Rs.5000/-, the petition was dismissed on 19.03.2015.

It is not out of place to observe here that on 29.07.2015 a bank draft of Rs.43,000/- being litigation expenses of Rs.25,000/- and Rs.18,000/- towards the arrears of maintenance was deposited with this Court and thereafter notice of motion was issued to the respondent-wife.

Attempts made for bringing about reconciliation by the Mediation and Conciliation Centre of this Court, were not fruitful.

We are of the opinion that on account of default of non-payment of the arrears of maintenance pendente lite and litigation expenses, impugned order dated 19.03.2015 was passed as a penalty measure in accordance with law. The said order is though perfectly legal but at the

same time, deprives the appellant an opportunity to seek adjudication of the petition on merits.

The respondent has opted not to appear today.

Since the act of default having been made good subsequently, an opportunity can be granted to the appellant to seek adjudication of his petition under Section 13 of the Hindu Marriage Act by imposing a condition on him that in case the appellant appears before the Family Court, Narnaul on or before 31.03.2018 by depositing the entire arrears of maintenance pendente lite calculated @ Rs.2000/- per month till March, 2018 after adjusting the amount already deposited along with costs of Rs.10,000/- his petition for divorce will be taken up for hearing from the stage as was prevailing on 19.03.2015.

The appeal is allowed in the aforesaid manner.

Both the parties shall appear before the lower Court on 31.03.2018 for further proceedings subject to the above said condition.

It is made clear that in case the order passed by this Court is not complied with by 07.04.2018, this petition will be deemed to have been dismissed.

(M.M.S. BEDI)
JUDGE

February 20, 2018.
harsha

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No