

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-8025-2017 (O&M)

Date of Decision:- 4.5.2018

Bharat Kumar Dixit

... Appellant

Versus

Smt. Usha Dixit

... Respondent

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

Present:- Mr. Ivneet Singh Pabla, Advocate for the appellant.

M.M.S. BEDI, J.

On account of having not cleared the arrears of maintenance *pendente lite* before the lower Court as on 6.9.2017, the application filed by the respondent-wife for dismissal of the petition for divorce filed by the appellant-husband, was allowed and the petition was dismissed for non-payment of interim maintenance.

Counsel for the appellant-husband has submitted that against the arrears of maintainance of ₹ 50,000-60,000/- as on 6.9.2017, a sum of ₹ 12,000/- towards part payment of the interim maintenance had been made on that day itself and a request was made for depositing the remaining payment of arrears of maintenance *pendente lite* on next date of hearing, but the Family Court, Faridabad has acted in haste in dismissing the petition for divorce on account of non-payment of the remaining arrears of maintenance *pendente lite*.

The appellant-husband had been directed to furnish an affidavit if he was ready to clear all the arrears of maintenance *pendente lite* along

with litigation expenses as determined by the lower Court, in order to get adjudication of his claim for divorce on the grounds mentioned in his petition for divorce, on merits.

Today, counsel for the appellant-husband has submitted on instructions of the appellant-husband that he is incapable of clearing the arrears of maintenance *pendente lite*.

We have considered the said circumstances and are of the opinion that on account of appellant-husband having expressed inability to pay any amount towards the arrears of maintenance *pendente lite*, it will not be expedient, in the interest of justice, to entertain the present appeal.

The appeal is dismissed, however, with a liberty to the appellant-husband to seek the revival of the appeal within a period of next six months, in case, the entire arrears of maintenance *pendente lite* calculated till 6.9.2017 are deposited in the shape of bank draft in the name respondent-wife along with an additional amount of ₹ 25,000/- towards the interim litigation expenses.

The appeal is dismissed in limine. The abovesaid liberty has been granted to the appellant-husband only to give him a last opportunity to seek the revival of the appeal subject to clearing the arrears of maintenance *pendente lite* till the date of dismissal of his petition by the lower Court.

(M.M.S. Bedi)
Judge

4.5.2018
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No