

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CM 17267-CII of 2018 in/ and
FAO-M-265 of 2017 (O&M)

Date of Decision: August 24, 2018

Naveen Kumar

.....Appellant

Vs.

Savita Devi

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL.

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Present: Mr. Gourav Jain, Advocate for the applicant.

Ms. Sakshi Saini, Advocate for
Mr. H.P.S. Ishar, Advocate for the respondent.

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

Petition for dissolution of marriage on the ground of cruelty filed by the husband was dismissed by Additional District Judge, Panchkula, on July 29, 2017. Aggrieved against the said order, the appellant had preferred the present appeal.

The respondent wife had filed an application to claim her statutory right of maintenance pendente lite under Section 24 of the Hindu Marriage Act in which notice has been issued to the appellant. The next date of hearing for rely and consideration of the application under Section 24 of the Hindu Marriage Act is November 27, 2018.

Through the present misc. application, the applicant-appellant has sought withdrawal of the main appeal. On copy of the application having been supplied to the respondent-wife, objection has been raised that the present application for withdrawal of the appeal is a device to evade the payment of any amount towards maintenance.

Counsel for the appellant has submitted that the maintenance ordered in proceedings under Section 125 Cr.P.C. is being paid to the respondent, which fact has been denied by counsel for the respondent.

Be that as it may, we are of the opinion that the appellant is required to pay the maintenance pendente lite in case he wants to proceed with the divorce petition. The present application for withdrawal of the appeal cannot be rejected but at the same time the rights of the respondent-wife to claim any maintenance cannot be prejudiced.

Taking into consideration the totality of all the circumstances, the application for withdrawal of the main appeal is allowed. The date is proponed for today and the main appeal is dismissed as withdrawn subject to payment of cost of Rs.15000/- to the respondent for causing unnecessary harassment to her without prejudice to the rights of the respondent-wife to claim maintenance in accordance with any statutory provisions of law. The order of dismissal of divorce petition of the appellant dated July 29, 2017 still holds the field so far as the matrimonial rights of the parties are concerned. Cost will be paid to the respondent within a period of one month. In case of failure, it will be open to the respondent wife to execute this order as per provisions of Section 36 CPC read with provisions of Section 21 CPC by approaching the lower Court from where the matrimonial

proceedings had initiated. In the said eventuality, the interest at the rate of 12% per annum will be recoverable from the appellant.

In view of dismissal of the main appeal, the application under Section 24 of the Hindu Marriage Act filed by the respondent has been rendered infructuous.

(M.M.S. BEDI)
JUDGE

August 24, 2018
sanjay

(ANUPINDER SINGH GREWAL)
JUDGE

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