

In the High Court of Punjab and Haryana at Chandigarh

CMM No.126 of 2016

IN

FAO No.8474 of 2015

Date of Decision : February 20, 2018

Dr. Ravi Gupta

.....*Appellant*

Versus

Dr. Aarti

.....*Respondent*

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

Present : Mr. Vikarm Chaudhary, Senior Advocate with
Ms. Isha Goyal, Advocate for the appellant.

Mr. Ashim Aggarwal, Advocate for the applicant/respondent.

GURVINDER SINGH GILL J.

1. This order shall dispose of an application under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as '*the Act*') filed on behalf of the applicant/respondent-wife, Aarti, seeking maintenence *pendente-lite* during pendency of the appeal.
2. It is averred in the application that the learned lower Court had been pleased to award maintenance *pendente-lite* @ ₹ 2.5 lacs per month including ₹ 50,000/- for each of the two daughters. It is averred that the bank statements of the appellant-husband, which had been placed on record before the Family Court, clearly reveal that the appellant-husband was earning more than ₹ 10

lacs per month in the year 2012. The applicant/respondent-wife has asserted that the education of the two children is severely affected on account of non-payment of maintenance *pendente-lite* and has thus prayed for grant of maintenance *pendente-lite* @ ₹ 3 lacs per month for herself and for her daughters.

3. The appellant-husband in his reply to the application has taken a stand that the order of maintenance *pendente-lite* as passed by the learned lower Court, whereby maintenance *pendente-lite* @ ₹ 2.5 lacs per month has been awarded to the applicant/respondent-wife, has been challenged by him. The appellant-husband has asserted that earlier he was working in Faridabad but subsequently in May 2013, he shifted to Jaipur due to family tensions and joined Eternal Heart Care Centre there. It is further averred that subsequently in November 2015, he left Eternal Heart Care Centre and joined Soni Hospital, Jaipur, where he was getting a fixed salary of ₹ 1.8 lacs per month. It is averred that due to shifting from Faridabad to Jaipur, he is still struggling to establish his career and is unable to earn as he was earning earlier. The appellant-husband has further stated that in fact the applicant/respondent-wife being a doctor working in Fortis Hospital, Faridabad is having annual income of more than ₹ 20 lacs. While denying all other material averments of the application, the appellant-husband prayed for dismissal of the application for grant of maintenance *pendente-lite* to the applicant/respondent-wife.

4. We have heard the learned counsel for the parties and with their able assistance have also gone through the record of the case.

5. It is an established fact that both husband and wife are professionals, being

doctors, who are into private practice. Both of them were earlier working in Faridabad but subsequently the appellant-husband shifted to Jaipur. From the evidence led before the lower Court, it is evident that the appellant-husband was earning extremely well and was getting handsome fee for various kinds of surgical procedures done by him. An extract from his cross-examination showing admissions made by him regarding fee charged by him for various surgical procedures is reproduced below :-

“he is presently working a Senior Consultant Interventional Cardiologist. I do Angiography. Angioplasty of heart arteries and arteries of the limbs, installation of pacemakers and ballooning of valves. I also see patients. Cost of package of Angiography would be 7000 and cost of Angioplasty package is Rs.50,000/-. Pacemaker implantation will be 15 to 25,000/-, ballooning normally cost Rs.45,000/- and consultation charges Rs.400/-. My share in angiography is Rs.1000/- per patient. Similarly of angioplasty Rs.8000/-, for pacemaker it will be 3 to 4000/-. Consultation charges are entirely mine. On an average I am doing 20-25 angiographies in a month, 8 to 10 angioplasty, 1 pace maker per month on an average, approx. one ballooning in two months. I give consultation on average to 2-8 patients per day. I normally give consultation to 60-150 patients per month.”

6. The learned counsel for the appellant-husband has, however, vehemently argued that the income of the appellant-husband has dropped considerably after he moved to Jaipur and that at present he is working on a fixed salary of ₹ 1.8 lacs per month with a private hospital i.e. Soni Hospital, Jaipur. It may here be mentioned that while the learned lower Court had awarded

maintenance *pendente-lite* @ ₹ 2.5 lacs per month including ₹ 50,000/- for each of the two daughters but this Court has reduced the same to ₹ 1.25 lacs per month, vide separate order of even date in the main appeal.

7. While noticing the facts including the above referred admissions made by the the appellant-husband himself, it is certainly evident that the appellant-husband is a successful doctor, who was earning extremely well and charging handsome fee from his patients, while he was in Faridabad. However, since the appellant-husband had shifted from Faridabad, where he had an established practice, to Jaipur, it can be said that it would take some time for him to establish his name in a new city. However, having regard to the fact that he was extremely successful in Faridabad, it can safely be expected that he would be able to establish successful practice even in Jaipur, which is also an equally big city. Infact, Jaipur is capital of the State of Rajasthan, where the public at large would be having a good paying capacity as compared to other cities of the State.
8. A perusal of the salary certificate, Ex.A-7, does show that the net salary of appellant-husband from November 2015 to October 2016 is shown as ₹ 1.8 lacs per month. However, a perusal of his bank account statement including Annexure A-8 shows that there have been huge withdrawals from his bank account. Some of the transactions run into lacs. A transaction dated 9.3.2015 pertains to transfer of an amount of ₹ 12.82 lacs through RTGS to “Philips” which shows that the appellant-husband is not merely surviving on his fixed salary of ₹ 1.8 lacs per month but is earning much more than that so as to be able to incur hefty expenditure. No doubt, the applicant/respondent-wife

herself is a professionally qualified doctor, who is working in a private hospital in Faridabad and would be earning reasonably well but apparently the appellant-husband is earning much more than his wife and in these circumstances is expected to provide her and his children with similar facilities and life style as enjoyed by him more particularly when his two young daughters would require considerable amount for their education. In view of status of their father, it can be expected that the best of the education in the best of the institutions would be provided to them.

9. Bearing all the abovesaid factors in mind, in our opinion, the application deserves to be accepted. Accordingly, while accepting this application, an amount of ₹ 1.20 lacs per month is awarded as maintenance *pendente-lite* to the applicant/respondent-wife to meet the expenditure incurred by her for herself and the two young daughters to whom the best of the education is required to be provided. The said maintenance *pendente-lite* shall be payable by the appellant-husband with effect from the date of application i.e. with effect from August 2016. In addition to the aforesaid amount of maintenance *pendente-lite*, a sum of ₹ 1 lac is also awarded to the applicant/respondent-wife towards litigation expenses. As regards the prayer for grant of permanent alimony under Section 25 of the Act, the said prayer cannot be considered at this stage and no order is required to be passed at this stage.

(M.M.S.Bedi)
Judge

(Gurvinder Singh Gill)
Judge

February 20, 2018

pankaj

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No