

CMM-56-2017 in FAO-M-193-2016

Vijay Pal V/s Smt. Darshana Devi

Present: Mr. Sukhvir Singh Sahu, Advocate,
for the non-aplicant/appellant.

Ms. Meenakshi Poswal, Advocate for the applicant/respondent.

Husband Vijay Pal had claimed divorce against the respondent-wife. The said petition was dismissed vide impugned judgment and decree dated 10.3.2016. Aggrieved by the said judgment and decree, an appeal has been preferred by the husband.

The respondent-wife has claimed her statutory right of maintenance *pendente lite* under Section 24 of the Hindu Marriage Act, 1955 by filing an application claiming that she has got no source of income and that she is maintaining a minor girl, whereas the husband is earning a sum of ₹ 30,000/- per month by stationery business.

The husband has filed reply denying that he is running any stationery shop but he has admitted that he is working as a labourer. He has levelled allegations against his wife that some other persons of her village had attacked him and caused injuries to him and as a result of which a criminal case was registered on 12.9.2014. He explained that the applicant/respondent-wife is residing in his house and doing stitching work and that they are living separately.

We have heard counsel for both the parties. The allegations levelled in the application by the non-aplicant/appellant-husband do not constitute a ground to deny maintenance *pendente lite* under Section 24 of the Hindu Marriage Act, 1955 to a wife. Presuming that the non-aplicant/appellant-husband is working as a labourer, being an able bodied

person, his monthly income can easily be presumed to be not less than ₹ 15,000/-. The fact that the daughter is at present residing with the non applicant/appellant-husband and that the wife is staying in the house of the husband, has not been contradicted by filing any rejoinder.

Without expression of any opinion on abovesaid circumstances, still the applicant/respondent-wife is entitled to maintenance *pendente lite* and litigation expenses, as she had been held to be entitled to maintenance in proceedings under Section 125 Cr.P.C as well. A sum of ₹ 4,000/- per month is considered to be the bare minimum required for preventing the starvation to the applicant/respondent wife as such she would be entitled to *maintenance pendente lite @ ₹ 4,000/-* per month from the date of the application i.e. April 2017. A sum of ₹ 25,000/- is assessed as litigation expenses. Any amount earlier paid will be adjustable against the amount of litigation expenses.

The application under Section 24 of the Hindu Marriage Act, 1955 is allowed in above terms.

For payment of the arrears of maintenance *pendente lite* and litigation expenses, to come up on 9.7.2018.

Both the parties are directed to appear before this Court on the date fixed at 2.30 P.M.

Entire arrears calculated till 30.6.2018 will be paid on next date of hearing along with the litigation expenses.

(M.M.S. Bedi)
Judge

5.2.2018

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Pankaj Kakkar
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I attest to the accuracy and
integrity of this document

(Gurvinder Singh Gill)
Judge