

HARISH CHANDER
V/S
KAVITA DEVI

Present: Mr. Chander Shekhar, Advocate, for
 Mr. S.P. Chahar, Advocate, for the appellant-husband.

 Ms. Bhavna Grewal, Advocate, for
 Mr. S.K. Yadav, Advocate, for the respondent-wife.

Aggrieved by the dismissal of his petition for divorce, the appellant-husband has preferred the first appeal before this Court.

During pendency of the appeal, the respondent-wife has filed an application under Section 24 of the Hindu Marriage Act seeking maintenance pendente lite at the rate of Rs.20,000/- per month and litigation expenses alleging that the appellant-husband is earning a sum of Rs.30,000/- per month as he is working as JBT teacher with Haryana Government and he is also taking private tuition as such his monthly income is Rs.40,000/-.

In the reply filed by the appellant-husband, it is averred that a sum of Rs.14,000/- per month is being paid to the respondent-wife under the orders of Judicial Magistrate Ist Class, Mahendergarh under the provisions of Protection of Women from Domestic Violence Act in a complaint filed in the year 2012. He claims that minor daughter, born out of the marriage, Durgesh is residing with the appellant-husband.

We have considered the averments in the application as well as in the reply. It is not disputed that the appellant-husband is a Government employee.

It appears that both the parties have not come forward to disclose the actual income of the appellant-husband. A judicial notice has

been taken on the fact that on revision of pay scales the income of a JBT teacher, taking into consideration the basic salary, would certainly be more than Rs.50,000/- per month. The respondent-wife has getting a sum of Rs.10,000/- towards maintenance under Section 20 of the Protection of Women from Domestic Violence Act.

A controversy has been raised regarding the custody of the minor child. Without entering into the dispute as to who is looking after the minor child, we are of the opinion that it is moral obligation of both the parties to maintain the child.

Taking into consideration the income of the appellant-husband, we are of the considered opinion that the respondent-wife is entitled to a minimum amount of Rs.15,000/- per month including a sum of Rs.4000/- per month which is being paid towards the residence order passed by the concerned Magistrate in the complaint filed under the Protection of Women from Domestic Violence Act. It is ordered that a sum of Rs.15,000/- per month towards the maintenance pendente lite will be payable by the appellant-husband to the respondent-wife, with effect from the date of application i.e. October, 2016. It is also clarified that in case the appellant-husband has been paying a sum of Rs.10,000/- under the order of Judicial Magistrate Ist Class, Mahendergarh as claimed by him, the said amount will be adjustable against the amount ordered by this Court. In case, any amount with effect from October, 2016, has been paid towards the maintenance under the Protection of Women from Domestic Violence Act, the same will be deductible. Litigation expenses are assessed as Rs.25,000/-. A sum of Rs.20,000/- earlier paid will be deductible from the said amount of Rs.25,000/-.

Application under Section 24 of the Hindu Marriage Act is allowed in above manner.

For payment of entire arrears of maintenance pendente lite and balance of litigation expenses, adjourned to 28.09.2018.

(M.M.S. BEDI)
JUDGE

July 06, 2018
harsha

(ANUPINDER SINGH GREWAL)
JUDGE