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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.2900 of 2018 (O&M)
Date of Decision: 29.05.2019**

VandanaPetitioner

Vs

Ankit BhardwajRespondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Dilpreet Singh Takkar, Advocate
for the petitioner.

Mr. G.L. Bajaj, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

CM No.12035-CII of 2019

For the reasons mentioned in the application, the same is allowed. Accompanying document Annexure P-3 is taken on record.

Main case

[1]. Petitioner has preferred this revision petition against the order dated 13.12.2017 passed by the Addl. District Judge, Jalandhar vide which the application filed by the petitioner under Section 24 of the Hindu Marriage Act (for short 'the Act') was dismissed.

[2]. Respondent filed a petition under Section 13 of the Act for a decree of divorce. During pendency of the aforesaid petition, petitioner filed an application under Section 24 of the Act for the grant of maintenance *pendente lite* and litigation expenses. The marriage took place between the parties on 29.10.2012 as per Hindu rites and ceremonies. Marriage was cohabited, but no issue was born out of the wedlock.

[3]. The Addl. District Judge, Jalandhar vide the impugned order dated 13.12.2017 dismissed the application for grant of maintenance *pendente lite*, but allowed litigation expenses to the tune of Rs.8,000/- in favour of the petitioner.

[4]. In the application under Section 24 of the Hindu Marriage Act, the petitioner has pleaded that she is doing a job, but her salary is not enough to meet out her expenses and she is totally dependent upon her parents. She claimed that respondent is involved in the business of manufacturing banners and is owner of the shop from where he is operating his business and he is earning more than Rs.1.5 lakhs per month. Petitioner further claimed that she has right to live as per status of her husband.

[5]. Learned counsel for the petitioner submitted that petitioner started working after filing of the divorce petition. The maintenance cannot be refused to the petitioner on the ground

that she was educated, professionally qualified and capable of earning income. When the petitioner was not earning anything at the time of filing of the petition under Section 13 of the Act, interim maintenance can be granted as the husband/respondent was capable to pay maintenance.

[6]. Learned counsel relied upon **Manish Jain vs. Akansha Jain, 2017(2) R.C.R. (Civil) 682** on the premise that respondent cannot deny interim maintenance during pendency of the divorce petition and the petitioner was not earning anything at the time of filing of the divorce petition.

[7]. On the other hand, learned counsel for the respondent submitted that the petitioner is also earning handsome salary from M/s Akbar Travels of India Pvt. Ltd. Learned counsel by relying upon **Rajni vs. Rajbir Singh, 2018(5) R.C.R. (Civil) 798** contended that when both husband and wife are earning independently, the petitioner-wife is not entitled to grant of any maintenance *pendente lite* for herself.

[8]. Vide order dated 15.12.2018, learned counsel for the parties were directed to file *prima facie* material in respect of monthly income of the parties. Learned counsel for the petitioner undertook to produce salary slip of the petitioner, whereas learned counsel for the respondent undertook to produce income tax returns of the respondent.

[9]. Learned counsel for the petitioner has produced salary certificate issued by the M/s Akbar Travels of India Pvt. Ltd., which shows that petitioner is an employee of M/s Akbar Travels of India Pvt. Ltd., Jalandhar and is working as a counter executive w.e.f. 18.07.2016 till date. Petitioner is getting salary of Rs.23,379/- per month. Learned counsel for the respondent has only produced income tax returns for the assessment years 2014-15, 2015-16 and 2018-19 that too today in Court only.

[10]. Evidently, respondent is an income tax assessee. As per income tax return for the assessment year of 2018-19, the gross income of the respondent is shown to be Rs.3,64,190/-.

[11]. Learned counsel for the petitioner again submitted that petitioner has liability towards old ailing father and unmarried sister. The amount of Rs.23,379/- per month is only a meagre amount, whereas the respondent is earning handsome amount from his business and the income tax returns are not the true picture of his real income which he has concealed in order to evade payment of tax.

[12]. At this stage, no firm finding in respect of income of the respondent can be made. It is a settled principle of law that respondent has moral obligation to maintain his wife and the wife is entitled to lead her life as per status of her husband. For making assessment in respect of monthly income of the

husband some guess work can be done for assessing *prima facie* income for the grant of maintenance *pendente lite* in favour of the wife.

[13]. It is also a settled principle of law that the maintenance cannot be granted for undue enrichment of the wife so as to impede likely reconciliation in future. Maintenance *pendente lite* is meant to prevent destitution and vagrancies of the wife. It is equally true that the wife is also entitled to lead her life according to the status of her husband.

[14]. Petitioner is also earning and she is also not expected to squeeze out the husband/respondent. At the time of filing of the divorce petition, the petitioner was not earning anything. As per the submissions made by learned counsel for the petitioner, the petitioner is having liability towards her old ailing father, who was earlier maintaining the petitioner. Petitioner is having one unmarried sister and she is looking after her also. On the other hand, respondent has also some liability towards his family.

[15]. Looking to the business prospects and monthly income of the respondent, it would be just and expedient to direct the respondent to pay maintenance *pendente lite* to the tune of Rs.10,000/- per month. By grant of such maintenance, the petitioner would not get any undue enrichment in any manner, rather she would feel secured to some extent as her job is only

private in nature. The said amount would suffice to prevent destitution and vagrancy and would not undue enrich the petitioner in any manner.

[16]. For the reasons recorded hereinabove, I partially accept the prayer made in the revision petition to the extent of awarding an amount of Rs.10,000/- per month as maintenance *pendente lite* payable to the petitioner from the date of filing of the application. The award of amount of Rs.8,000/- as litigation expenses shall remain the same. Ordered accordingly. Petition stands partially accepted.

May 29, 2019

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No