

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

**CR No.5392 of 2018(O&M)
Date of Decision: 15.05.2019**

Rajinder Kumar

....Petitioner

Versus

Neelam Kumari

.....Respondent

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

Present:Mr. Harsh Chopra, Advocate
for the petitioner.

Mr. Vishal Nehra, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 06.07.2018 passed by Additional District Judge, Rupnagar vide which the application filed by the respondent under Section 24 of the Hindu Marriage Act was allowed and an amount of Rs.10,000/- per month was fixed as maintenance *pendente lite*.

[2]. The marriage between the parties is an admitted fact. The marriage took place in the year 2007. Petitioner claimed that he has no source of income and there is no ground to award any maintenance against him. The Court has recorded

some incriminating facts with reference to representation filed by the petitioner before Senior Superintendent of Police, Rupnagar, wherein he had admitted that he is a trader doing business at Bharatgarh. There are allegations and counter allegations.

[3]. Learned counsel for the petitioner stated that there is a delay of about 10 years in seeking maintenance. From the date of desertion till date, no application was filed by the respondent for seeking maintenance under Section 125 Cr.P.C. The respondent never wanted to reside with the petitioner. Petitioner has no source of income to maintain the respondent.

[4]. Per contra, learned counsel for the respondent submitted that non-filing of any application under Section 125 Cr.P.C cannot be credited in favour of the petitioner as the same goes in favour of the petitioner because nothing was claimed from the petitioner for the said period as the respondent was being maintained by her parents. After the demise of her parents, she is living with her sister.

[5]. At this stage, no reliance can be placed for want of evidence which would be led by the parties at the relevant stage. Grant of maintenance *pendente lite* is not aimed to enrich any of the spouse, rather the same is made to prevent the destitution and vagrancies. Respondent is entitled to live as per

status of her husband. In these days of growing prices, an amount of Rs.10,000/- is not sufficient for minimum bare sustenance of life in terms of day to day basic needs. There cannot be any dispute with regard to proposition held in **Neeta Rakesh Jain Vs. Rakesh Jeetmal Jain, (2010) 12 Supreme Court Cases 242** and **Manish Jain Vs. Akanksha Jain, (2017) 15 Supreme Court Cases 801.**

[6]. The maintenance can be granted as per social status of the parties. It is the moral obligation of the husband to maintain his wife. No evidence of the income of the husband has come forth, but at one stage, a representation was made by the petitioner before Senior Superintendent of Police, Rupnagar wherein he had admitted his status to be that of a trader. While ordering maintenance, the discretion of the Court must be guided by the criteria provided in the provision i.e. source of income of the parties and also after taking into consideration the incidental and other relevant factors like social status and background of the parties. The maintenance under Section 24 of the Hindu Marriage is an interim maintenance during pendency of the divorce petition. A detailed and elaborate exercise by the Court may not be necessary, but *prima facie* consideration has to be made in respect of source of income of the husband. The Court has to exercise its discretion in a

judicious manner while granting maintenance *pendente lite*.

[7]. The award of maintenance to the tune of Rs.10,000/- keeping in view the social status of the parties is not on the higher side as this amount is sufficient to avoid vagrancies and destitution as the respondent is also entitled to live as per status of the husband. The plea of the petitioner that the petitioner has no source of income cannot be believed in view of his stand taken before the Senior Superintendent of Police, Rupnagar which *prima facie* ventilates his *prima facie* status to be that of a trader. Even otherwise, the award of maintenance to the tune of Rs.10,000/- is not such which would entail in exercise of extraordinary supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

[8]. Finding no merit in this revision petition, the same is dismissed. Normal consequences to follow.

15.05.2019

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No