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

CR No. 8633 of 2015 (O&M)
Date of Decision: 07.03.2019

Kuldeep Singh

-Petitioner

Vs

Smt. Shakuntla and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ajay Jain, Advocate,
for the petitioner.

Mr. Jitendra Sharma, Advocate,
for the respondents.

RAJ MOHAN SINGH, J.

This revision petition has been preferred by the petitioner against the order dated 18.11.2015 passed by District Judge, Family Court, Hisar vide which application filed by respondent No.1 under Section 24/26 of Hindu Marriage Act was partly allowed and the petitioner was directed to pay a sum of Rs.10,000/- per month to respondent No.1, Rs.2000/- each per month to both the children and Rs.8000/- per month to college going daughter apart from litigation expenses.

At the time of issuance of notice of motion on 27.01.2016, following order was passed:-

*“Learned counsel for the petitioner
submitted that vide order dated 18.11.2015*

learned District Judge, Family Court, Hisar ordered the petitioner to make payment of a sum of Rs.22,000/- (Rs.10,000/- for wife, Rs.2,000/- each for two male children and Rs.8,000/- for daughter). Apart from that, litigation expenses to the tune of Rs.3,300/- has also been ordered.

The main contention of learned counsel for petitioner is that Pooja (daughter) is a college going girl and her date of birth is January, 1995. Ashish, one of the son's, is also major as his date of birth is 07.01.1998. As per the provisions of Section 26 of the Hindu Marriage Act, 1955 they are not entitled for maintenance allowance, being not minor children. However, learned counsel for the petitioner also submitted that petitioner is ready to make the payment of maintenance allowance awarded to the wife and one minor child, namely, Lavish, from the date of application.

Notice of motion for 11.04.2016.

Meanwhile, the petitioner shall make payment of maintenance allowance to the wife and one minor child, namely, Lavish from the

date of application and payment of maintenance allowance awarded to Pooja and Ashish (major daughter and son) shall remain stayed.”

In due course, the case came up for consideration before this Court on 10.09.2018 and learned counsel for the petitioner sought time to address arguments on merits to show that provisions in terms of Section 24 and 26 of Hindu Marriage Act can be considered in isolation with other provisions contained in Hindu Adoption and Maintenance Act, 1956, Hindu Succession Act, 1956 and Hindu Minority and Guardianship Act, 1956.

Today, learned counsel for both the parties have relied upon **Padmja Sharma vs Ratan Lal Sharma, 2000(2) RCR (Civil) 590.**

In addition to the aforesaid judgment, learned counsel for the petitioner also relied upon **Smt. Alka Bhaskar Bakre vs Bhaskar Satchidanand Bakre, 1990(2) HLR 561** and contended that maintenance in favour of minor child under Hindu Marriage Act can only be passed during minority of the child. On attaining majority, provisions of Section 26 would cease to apply.

On the other hand, learned counsel for the respondents refers to para no.10 of **Padmja Sharma's case (supra)** and submitted that it is the duty of the petitioner to

maintain his children. Provisions in terms of Hindu Marriage Act, 1955, Hindu Minority and Guardianship Act, 1956, Hindu Adoption and Maintenance Act, 1956 and Hindu Succession Act, 1956 are to be read in conjunction with one another. Maintenance includes provisions for food, clothing, education and medical attendance and treatment. In case of unmarried daughter, reasonable expenses and incident to her marriage can be granted.

On the other hand, learned counsel for the petitioner on the basis of same paragraph relies upon the explanation attached to Section 20 of Adoption and Maintenance Act and submits that minor child can claim compensation as long as he/she is minor. In order to apply the aforesaid law, factual matrix of the case has to be appreciated.

Petitioner filed reply to the application under Section 24 and 26 of Hindu Marriage Act. In reply to para no.7 of the application, following reply was given by the petitioner:-

“That the contents of para no.7 of the application are wrong, incorrect and hence denied. It is denied that respondent/wife is a household lady and she has no source of income except salary of petitioner/husband. Complete reply has already been given above which may also be read as part and parcel of

the present para as well.”

Apparently, the petitioner has not taken this ground on the basis of which legal arguments are being made before this Court. Even during course of arguments before the District Judge, Family Court, Hisar, no such argument was made in respect of majority of one of the daughter thereby dis-entitling her from claiming maintenance from the father. Even in the grounds of revision filed before this Court, no such averments in respect of one of the unmarried daughter having attained majority has been pleaded. The foundation on the basis of which legal arguments are sought to be made, is missing altogether in the present case.

During course of arguments, it has been revealed that the petition under Section 13 of Hindu Marriage Act filed by the petitioner has been dismissed.

In view of aforesaid position, I do not see any justification to interfere in this revision petition. This revision petition is accordingly, dismissed. However, petitioner would be at liberty to avail his remedies in accordance with law.

07.03.2019

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |