

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

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**FAO-778-2019 (O&M)
Date of Decision : 24.05.2019**

Santosh Kumar Arjunahi

... Appellant

Versus

Reeta Verma

...Respondent

**CORAM:HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Munfaid Khan, Advocate for the appellant.

Harnaresh Singh Gill, J.

This appeal is directed against the order dated 11.10.2018 passed by the learned Additional Principal Judge, Family Court, Faridabad, whereby an application under Section 24 of the Hindu Marriage Act, 1955 (for short 'the Act') filed by the respondent-wife in a pending petition under Section 13 of the Act filed by the appellant-husband, has been allowed and the appellant-husband has been directed to pay a sum of ₹4,000/- per month to the respondent-wife towards maintenance of the school going children and household expenses. Besides, the appellant-husband has been directed to pay a sum of ₹4500/- to the respondent-wife towards litigation expenses.

The factum of marriage and birth of two children is not disputed. The appellant-husband has challenged the order passed by the learned trial Court on the ground that on account of the physical and mental harassment caused by the respondent-wife, the appellant went into depression, rendering him jobless, whereas on the other hand the respondent-wife is a graduate and earning ₹30,000/- per month from the tuitions given by her to 25-30 students. Still further, the impugned order has been assailed on the ground that the respondent-wife and the children are living on the first floor of her matrimonial home and therefore, she does not require any maintenance for herself and the children.

We have heard learned counsel for the petitioner and do not find any merit in the present appeal.

Perusal of the impugned order would show that a finding has been recorded by the learned trial Court that as per her own admission, the respondent-wife is giving tuitions to 6-7 students at home. It was further admitted by her that her husband i.e. appellant is bearing the school fee expenses and expenses towards uniform(s) etc. of the children besides the electricity bills of the house. The appellant-husband had admitted that he was running a Karyana shop in the premises owned by his parents. It was further found that as the husband did not disclose his means of earning except running of a karyana shop, non disclosure thereof, would not give any liberty to him to escape his liability to maintain his wife and children. Thus, having noticed the lifestyle and status of the parties, the learned trial Court assessed the income of the appellant-husband between ₹12,000/- and ₹15,000/- per month. Similarly considering the fact that the respondent-wife had conceded that she was giving tuitions to the children at home, her

monthly income was assessed to be between ₹3,000/- and ₹4,000/-. Thus, taking into consideration the totality of the facts and circumstances, balancing equities, provable range of income of the husband, necessities of the life and other necessities of the school going children, learned trial Court has directed the appellant-husband to pay ₹4,000/- as maintenance *pendente lite* "i.e. maintenance of the school going children and household expenses" from the date of filing of the application till the disposal of the divorce petition. Apart from the aforesaid amount, an amount of ₹4500/- was awarded as litigation expenses.

In our opinion, grant of ₹4,000/- per month as maintenance of the school going children and household expenses, is perfectly justified. Even if the respondent-wife is earning ₹3,000/- to ₹4,000/- per month from the tuitions, the same cannot be considered sufficient to maintain herself and two school going children of the parties. Admittedly, except giving tuitions at home, the respondent-wife is not possessed of any other means so as to sustain herself and the minor school going children and to bear the household expenses and the expenses of other necessities of life.

On the other hand, the appellant-husband is running a Karyana shop and considering the fact that in these days even a daily wagger would be earning between ₹9,000 to ₹10,000 per month, the income from the shop of the husband cannot be assessed lower than that.

As per Section 24 of the Act, pending divorce proceedings, the husband is liable to maintain his wife and children. He cannot escape this liability merely alleging that the wife has caused mental agony and harassment to him, especially when such aspects are yet to be adjudicated upon by the learned trial Court, on the basis of the evidence.

In view of the above, we do not find any merit in the present appeal and the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

24.05.2019
pooja saini

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>Yes</i>