

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1723 of 2019

Date of Decision: 13.03.2019

Ravinder Kumar

.....Petitioner

Vs.

Smt. Pooja

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ram Pal Verma, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order of the learned Additional Principal Judge, Family Court, Sonapat, dated 10.01.2019, (with learned counsel submitting that the order erroneously shown the year 2018 both at the beginning and at the end of it), by which an application filed by the respondent herein, i.e. the wife of the petitioner under Section 24 of the Hindu Marriage Act, 1955, has been allowed, with the petitioner directed to pay her Rs.12,500/- per month for her maintenance, she having stated in her application (copy Annexure P-3), that she is a “domestic lady who is unable to do any work or to maintain herself”, with it even having been alleged that that was for the reason that she was suffering from injuries allegedly inflicted by the petitioner.

On the other hand, the petitioner is stated (in the application) to be earning a salary of more than Rs. 50,000/- per month, he being an employee in the Chandigarh Police, with it also further stated that he earns additional income from his moveable and immovable properties to the tune of Rs.

30,000/-, thereby having a total income of Rs. 80,000/- per month.

She had actually therefore asked for a maintenance of Rs.35,000/-, in addition to Rs.11,000/- by way of litigation expenses.

Vide the impugned order, the learned trial Court (in proceedings instituted under Section 13 of the Act of 1955 by the present petitioner, alleging therein cruelty at the hands of respondent wife), recording a finding that as per the salary certificate placed on record by the present petitioner, he was taking a carry home salary of Rs. 45,223/- per month.

Hence, with it obviously not having been shown before that Court that the respondent herein, i.e. the wife, had any source of income of her own, a monthly maintenance of Rs. 12,500/- has been directed to be paid by the petitioner to the respondent, with nothing stated in the impugned order with regard to litigation expenses.

Learned counsel for the petitioner submits that the petitioner having old parents and two sisters to look after, the respondent was not entitled to any maintenance, especially as the allegation is that she was cruel to the petitioner.

He further submits that the respondent left the matrimonial home on her own accord.

Yet further, he submits that earlier also a compromise was effected between the petitioner and the respondent, despite which she left her matrimonial home.

Having considered the aforesaid arguments, first Section 24 of the Hindu Marriage Act, 1955, needs to be noticed, which is reproduced as hereinafter follows:-

“Maintenance pendente lite and expenses of

*proceedings----*Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable:

[Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.]”

Thus, as per the aforesaid provision, if it appears to the Court that either the husband or the wife has no independent source of income sufficient to support herself/himself, necessary expenses during the pendency of the proceedings before that Court, would be granted to such person, to be paid by the other.

Nothing having been shown before this Court that the petitioner is actually not earning Rs. 45,000/- per month as his carry home salary, or that the respondent has any source of income to sustain herself, simply because the petitioner has his parents and his sisters to look after (as contended before this Court, with no evidence having been produced to show as to whether he has any other siblings who could also be performing that duty), in any case, the petitioner is also duty bound to maintain his wife even during the pendency of the petition filed by him under Section 13 of the Hindu Marriage Act, 1955, in

terms of Section 24.

Consequently, finding no merit in this petition, it is dismissed *in limine*.

March 13, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes