

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 3133 of 2019 (O&M)

Date of Decision: 13.5.2019

Manoj Kumar

.....Appellant

Vs.

Sunita

.....Respondent

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

Present: Mr. Manoj Makkar, Advocate
for the appellant.

RAKESH KUMAR JAIN, J. (ORAL)

This appeal is directed against the order dated 13.3.2019 passed by the Family Court, Rohtak by which the application filed by the respondent-wife under Section 24 of the Hindu Marriage Act, 1955 ('Act' for short) for seeking grant of maintenance *pendente lite* and litigation expenses, has been allowed and she has been awarded ₹ 8,000/- per month towards maintenance *pendente lite* and Rs. 11,000/- towards litigation expenses

In brief, marriage of the appellant with the respondent was solemnized on 14.1.2011 at Bahadurgarh District Jhajjar as per Hindu rites and ceremonies. There is no child out of the said wedlock. The appellant-husband has filed a petition under Section 13 of the Act in the Court at Rohtak for seeking a decree of divorce on the ground of cruelty. During the said proceedings, the respondent has filed an application under Section 24 of the Act for seeking maintenance *pendente lite* alleging that the appellant

is employed in Indian Army and is drawing basic salary of ₹ 45,000/- per month. The respondent has alleged that she has no source of income. Although the appellant has alleged that the respondent has completed her law and has enrolled herself with the Bar Association of Punjab and Haryana, Chandigarh, however, it has been noticed by the Court below that she has not started practicing law.

Be that as it may, learned counsel for the appellant has submitted that the applications filed by the respondent under Section 125 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) and Section 12 of Protection of Women from Domestic Violence Act, 2005 ('2005 Act' for short) have been dismissed by the Court below on the ground that the respondent had lived only for five days with the appellant and in such a short span of time the Court cannot presume that she was subjected to cruelty.

We have heard learned counsel for the appellant and after examining the record, are of the considered opinion that the concept of maintenance under Section 24 of the Act is altogether different from the concept of maintenance under Section 125 Cr.P.C. and Section 12 of 2005 Act. Under Section 24 of the Act, either of the spouse can claim maintenance and litigation expenses if the spouse claiming maintenance and litigation expenses has no means of earning. The said maintenance is granted during the pendency of the proceedings and comes to an end with the culmination of the proceedings. Thus, in our view, there is no error on the part of the Court below in awarding ₹ 8,000/- per month towards maintenance *pendente lite* and ₹ 11,000/- towards litigation expenses to the respondent keeping in view the salary of the appellant to the tune of

₹ 45,000/- per month. No other point has been argued.

In view of the aforesaid observations, the present appeal is hereby dismissed with no costs.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

May 13, 2019
Gurpreet

Whether speaking /reasoned : Yes/No
Whether Reportable : Yes/No