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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/05/2019 16:39
I attest to the accuracy and
authenticity of this document

CR-3162-2019 O/M)
Date of decision : 20.5.2019

Sidharth Panda

..... Petitioner (s)

Versus

Mumtaz Sheikh

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. J.S. Dhaliwal, Advocate,
for petitioner.

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KULDIP SINGH, J. (ORAL)

Petitioner has impugned order dated 18.2.2019 (Annexure-P-5), passed by learned Principal Judge, Family Court, Amritsar, vide which maintenance at the rate of Rs. 35,000/- was allowed to wife (respondent).

I have heard learned counsel for petitioner and have also carefully gone through file.

It comes out that petitioner, who is a Major in Indian Army, has filed a petition under Section 12 of Hindu Marriage Act, 1955, against respondent. Parties were married on 14.7.2016 as per Hindu Rites and Ceremonies. Petitioner was a divorcee, whereas respondent was unmarried and Muslim by religion at the time of marriage. From petition, it also comes out that it was a love marriage.

The learned counsel for petitioner has argued that respondent is already getting maintenance from Army authorities at the rate of 22% of his salary which is being deducted from his salary by Army authorities. It is stated that in view of fact that Army authorities are already deducting maintenance from salary of petitioner, impugned order could not be passed. Secondly, it is contended that since respondent was a Muslim and marriage

is nullity, therefore, maintenance could not be allowed as respondent will not fall within definition of legally wedded wife. Reliance has been placed upon authority of Hon'ble Supreme Court of India in Gullipilli Sowria Raj Versus Bandaru Pavani alias Gullipili Pavani, 2009 (1) RCR (Civil) 442.

I am of view that matter is already pending before Principal Judge, Family Court, Amrtisar. Therefore, this Court will not pass any comment regarding validity of marriage, which is yet to be decided. The marriage between parties is not denied. It is also not denied that petitioner is getting monthly salary to the tune of Rs. 1,25,000/- plus other perks. Therefore, Rs. 35,000/- per month maintenance to respondent cannot be called on higher side maintenance. Petitioner is always at liberty to claim adjustment regarding maintenance paid by him to respondent on account of order passed by Army authorities. For this purpose, he is always at liberty to raise plea before trial Court for adjusting said amount. There is no illegality or infirmity in impugned order. Thus, revision is dismissed.

(KULDIP SINGH)
JUDGE

20.5.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No