

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.257 of 2020 (O&M)

Date of Decision: 22.1.2020

Neeraj Kumari

...Petitioner

Vs.

Gyanender

...Respondent

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sankalp, Advocate for
Mr. Saurabh Dalal, Advocate
for the petitioner

RAJIV NARAIN RAINA, J. (Oral)

1. The present revision petition arises out of the order dated 22.10.2019, passed by the learned Principal Judge, Family Court, Jhajjar, whereby, an application under Section 24 of the Hindu Marriage Act, 1955 (hereinafter 'the Act') filed by the petitioner-wife, was dismissed.

2. The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent-husband (hereinafter 'the husband') filed a petition under Sections 13(1) (1A) of the Act for dissolution of the marriage between him and the present petitioner (hereinafter 'the wife').

3. During the pendency of the aforesaid divorce petition, the wife filed an application under Section 24 of the Act, seeking therein interim maintenance and litigation expenses. The husband contested the application stating that the wife was already in receipt of maintenance to the tune of Rs.8800/- per month in the proceedings under Section 125 of the Code of

Criminal Procedure, 1973.

4. After considering the stand taken by both the parties, the Family Court disposed of the said application by concluding that the parties have failed to produce any material, on the basis of which, the income of the husband may be assessed accurately, while directing the husband to pay Rs.8800/- per month as maintenance *pendente lite* to the wife from the date of application, besides one time litigation expenses of Rs.5500/-. The Family Court has made it clear that the wife is entitled to get only one of the reliefs either under Section 24 of the Hindu Marriage Act or Section 125 Cr.P.C. whichever is higher.

5. After hearing learned counsel for the petitioner, I find no error of jurisdiction or in the exercise of discretion by the Family Court in allowing Rs.8800/- P.M. as maintenance for the reason that the husband has already been paying his wife maintenance in the proceedings under Section 125 Cr.P.C. The husband is serving in the Armed Forces. The wife has not denied the fact before the Family Court that the husband has been paying Rs.8800/- p.m. There is no ground to interfere in the impugned order. There is no scope for any further enhancement in the awarded maintenance at this stage as the amount granted through the impugned order is found to be just, adequate and reasonable. The couple has no issue.

6. Accordingly, the petition is dismissed in *limine*.

(RAJIV NARAIN RAINA)
JUDGE

22.1.2020
kv

Whether speaking/reasoned : Yes
Whether reportable : Yes/No

