

month on account of cost of litigation. The said application was registered as Misc. Judicial Case No.17 of 2017.

The husband/petitioner herein contested the application under Section 24 of the Hindu Marriage Act denying the allegations contained in the said application.

The learned advocate for the petitioner contended that the wife is earning a substantial amount as salary as she is employed in a School at United Arab Emirates. She contends that the opposite party herein has independent income sufficient for her support and the necessary expenses of the proceeding and as such she is not entitled to any alimony under Section 24 of the Hindu Marriage Act. She further submits that in a proceeding under Section 125 of the Criminal Procedure Code it has been held that the wife/opposite party is able to maintain herself as she has sufficient income and as such the learned Judge of the Court below exceeded his jurisdiction by directing the petitioner to pay a sum of Rs.10,000/- per month on account of alimony and litigation cost amounting to Rs.30,000/-.

The learned advocate for the opposite party herein submitted that the income of the wife is not sufficient to maintain herself in accordance with the status of her husband. He submitted that the learned Court below was justified in passing the order directing the husband to pay alimony and litigation cost. He supported the judgment passed by the learned Judge of the Court below.

I have heard the learned Advocates for the parties and have perused the materials on record.

Section 24 of the Hindu Marriage Act, 1955 Provides that where in a proceeding under the 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.

Admittedly, both the husband and the wife are working in United Arab Emirates in a School. From the document produced by the husband it appears that his annual income is Rupees Fifteen lakhs. Though the husband claimed that he is incurring an expenditure of Rupees sixty thousand for his accommodation but he failed to substantiate the same by producing documentary evidence in support thereof.

The prayer for grant of alimony and litigation cost cannot be rejected solely on the ground that the wife is having an independent income. It is to be considered as to whether the income earned by the wife is sufficient for her support and to meet the necessary expenses of the proceeding.

The learned Trial Judge after taking into consideration the incomes of the wife and the husband

arrived at a finding that the wife is entitled to a sum of Rs.10,000/- per month on account of alimony pendente lite and litigation cost of Rs.30,000/-. In my view, the amount of alimony and litigation cost fixed by the learned Judge of the Court below is reasonable in the facts and circumstances of the instant case..

It is well settled that the Learned Judge while dealing with an application under Section 24 of the Hindu Marriage Act, 1955 is free to decide the same on the basis of the materials placed on record and is not bound by the observations made by the Learned Magistrate in the order passed under Section 125 of the Criminal Procedure Code.

The impugned order does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

C.O. 29 of 2020 is accordingly, dismissed without, however, any order as to costs.

Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.

(HIRANMAY BHATTACHARYYA, J.)