

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR-2049-2022 (O&M)
Date of decision : 23.05.2022**

Jagjit Singh

... Petitioner(s)

Versus

Devinder Kaur

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.K. Jaswal, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 04.04.2022 (Annexure P-4) passed by the Additional Principal Judge, Family Court, Patiala whereby the petitioner-husband has been directed to pay a consolidated sum of ₹5,000/- to the respondent-wife as costs of litigation.

Brief facts relevant to the present *lis* are that the petitioner-husband filed a petition under Section 13 of the Hindu Marriage Act, 1955 (hereafter referred to as '1955 Act') for dissolution of the marriage on the ground of cruelty. In the said petition, an application under Section 24 of the 1955 Act was filed by the respondent-wife for grant of maintenance *pendente lite*. The Family Court vide impugned order dated 04.04.2022 has held that since a separate petition under Section 125 of the Code of Criminal Procedure, 1973 (CrPC) had been filed for grant of interim maintenance and an amount of ₹4,000/- had been awarded towards maintenance, no

separate order for grant of maintenance *pendente lite* over and above the amount granted for maintenance was warranted. However, while disposing off the application, the Family Court had held that the respondent-wife would be eligible to claim litigation expenses in the present case and had directed the petitioner-husband to pay a consolidated sum of ₹5,000/- as litigation expenses. Aggrieved by the said order, the present revision petition has been filed.

Learned counsel for the petitioner-husband would contend that the respondent-wife is already getting the maintenance under Section 125 of CrPC to the tune of ₹4,000/- per month and no order has been passed qua maintenance. However, erroneously, the Family Court has passed an order directing the petitioner-husband to pay a consolidated sum of ₹5,000/- as litigation expenses. He would further contend that the petitioner in the present case sells milk and he has old aged parents and a minor son to look after and they are all residing in a rented accommodation.

Heard.

In the present case, the petitioner-husband has filed a petition under Section 13 of the 1955 Act. The respondent-wife is well within her right to file an application under Section 24 of the 1955 Act for grant of maintenance *pendente lite* and expenses of the proceedings. The Family Court has passed an order stating therein that since the respondent-wife was already getting an amount of ₹4,000/- per month as maintenance in the petition under Section 125 of CrPC, hence, grant of any further maintenance *pendente lite* was not warranted. However, the Family Court has granted a consolidated sum of ₹5,000/- towards litigation expenses.

Section 24 of the 1955 Act reads as under:-

“24. 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.”

The words used in the Section are that where in any proceeding under this Act, it appears to the Court that either the husband or the wife does not have the sufficient means to support him or herself and the necessary expenses of the proceeding, the Court may pass an order directing payment of maintenance *pendente lite* and the expenses of the proceeding.

In the present case, though the Family Court had come to the conclusion that no further grant of maintenance is warranted, however, it has passed an order of payment of ₹5,000/- qua litigation costs. There is no reason forthcoming as to why this Court should interfere in the impugned order passed by the Family Court directing the petitioner-husband herein to pay an amount of ₹5,000/- as litigation costs. The respondent-wife has to engage a lawyer and defend herself in the divorce proceedings and would hence be entitled to the said litigation expenses. It has not been shown that the respondent-wife has any independent source of income.

In view of the above, I do not find any illegality or infirmity in the impugned order passed by the Family Court and, hence, the present revision petition is dismissed. Pending applications, if any, also stand disposed off.

23.05.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO