

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

CR-7845-2019 (O&M)

Date of decision : 22.12.2022

Kiran Bala

... Petitioner(s)

Versus

Rajesh Chahar

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajit Sihag, Advocate with
Ms. Kiran Bala, petitioner in person.

Mr. Narender Kaajla, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

Pursuant to the order dated 07.12.2022, the petitioner-wife has appeared in person and states that she is not being pressurized by her family to file the divorce petition. However, the respondent-husband is not present in Court. The present revision petition is being heard on merits.

The present revision petition under Article 227 of the Constitution of India has been filed challenging the order dated 20.09.2019 (Annexure P-1) whereby the application filed by the petitioner-wife for grant of maintenance *pendente lite* during the pendency of the divorce petition under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 (hereinafter referred to as the 'HMA Act') has been dismissed.

Learned counsel for the petitioner-wife would contend that the Family Court by way of the impugned order has virtually decided the divorce petition inasmuch as it has been held that since WhatsApp messages were being sent by the petitioner-wife to the respondent-husband after the filing of the divorce petition and it was apparent that she had not filed the

divorce petition on her free will and hence the application being devoid of any merit was dismissed. Learned counsel for the petitioner-wife would further contend that the merits of the case have not even been touched upon and yet virtually the divorce petition filed under Section 13(1)(ia)(ib) of the HMA Act has been dismissed.

Per contra, learned counsel for the respondent-husband states that the impugned order has rightly been passed inasmuch as it has come on the record that WhatsApp messages were being sent by the petitioner-wife to the respondent-husband after the filing of the divorce petition.

Heard.

In the present case the Family Court by way of the impugned order has virtually adjudicated upon the divorce petition itself. The application under Section 24 of the HMA Act has not even been adjudicated upon. The impugned order being totally unsustainable in law is set aside and the matter is remanded back to the Family Court to decide the application under Section 24 of the HMA Act afresh, on merits, in accordance with law.

Disposed off accordingly. Pending applications, if any, also stand disposed off.

22.12.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

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