

Inderjit Singh

...Petitioner

versus

Manjit Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Tanvir Singh Attariwala, Legal Aid Counsel for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside impugned order dated 03.08.2022 (Annexure P-4) passed by learned Principal Judge, Family Court, Hoshiarpur, whereby in proceedings instituted by husband under Section 9 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'The Act'), application filed by respondent-wife under Section 24 of the Act was partly accepted and respondent-wife has been granted maintenance *pendente lite* of Rs.7,000/- per month from the date of application along with litigation expenses of Rs.5,000/-.

2. I have heard learned counsel for the petitioner/husband and gone through the case file.

3. Impugned order is premised, *inter alia*, on the following reasoning:-

“10. Admittedly, at present applicant is living separately from respondent and she is also maintaining their minor daughter and ailing son while depending upon the mercy of her parents whereas it is the moral as well as legal duty of respondent to maintain his wife and minor children. This Court is also of the considered view that a husband has to support his wife financially in a manner befitting to her status and similar to husband's status. In his affidavit he disclosed himself as labourer/helper and shown his monthly income as Rs.4,000/- per month and Rs. 1500/- to Rs.2000/- per month as overtime income. Even, in his written reply to instant application he has categorically submitted that he purchased a commercial vehicle

and started saving Rs.5,000/- to Rs.6,000/- per month, but, further taken stand that he sold the same as mother of applicant did not like this profession. From, this it is abundantly clear that earlier respondent was plying commercial vehicle, as such, considering him at this stage as an expert driver by profession, this Court is of the view that he must be earning more than Rs.20,000/- per month as now-a-days a skilled worker/expert driver like respondent is charging more than 700/- per day as wages. But, respondent has taken above said plea of earning Rs.5,000/- to Rs.6,000/- per month while working as helper in some embroidery shop is only to avoid payment of sufficient maintenance to his wife who is also maintaining their ailing minor son and daughter. The respondent is legally as well as morally duty bound to maintain applicant-wife who is also maintaining their children, even by doing hard labour work. Nothing has come on record from which any inference can be drawn that respondent is not an able bodied person. Thus, respondent is man of means and is having good financial status and having no other liability except to maintain applicant who is maintaining their school going children. However, it is settled proposition of law that amount of maintenance pendente-lite to be fixed for wife should be such as she can live in reasonable comfort considering her status and mode of life as she was used when she living with her husband and also that she does not feel handicapped in prosecution of her case but at the same time amount so fixed cannot be excessive or extortionate to affect the living condition of the other party.

11. Therefore, keeping in view all facts and circumstances of this case, income of respondent as well as social/living status of parties in society and trend of rising prices and the fact that applicant-wife is also maintaining their school going minor children, as such, respondent is directed to pay maintenance pendente-lite @Rs.7,000/-(Rupees Seven Thousand only) per month to applicant from the date of application as she is also maintaining their school going minor children and is also getting treatment of their ailing son. The respondent is also burdened to pay an amount of Rs.5,000/- as onetime litigation expenses to the applicant. Accordingly, application for grant of maintenance pendente-lite filed by the applicant stands disposed off.

12. However, nothing observed in this order shall be construed as an opinion on the merits of the main petition.”

4. Having heard the arguments of learned counsel for the petitioner, there is no room for interference in the aforesaid valid reasons recorded by the Court below. The learned Family Court duly considered the petitioner's contention that respondent-wife was also an earning hand but held that her nominal earnings did not disqualify her from claiming maintenance from the petitioner-husband.

4.1. Income of petitioner-husband to the tune of Rs.20,000/- from the business of plying commercial vehicle, is rightly assessed by learned Court below.

Learned Family Court also rightly considered petitioner-husband as an expert driver by profession. That apart it is the obligation of the petitioner to look after his wife and two children. In the premise, maintenance of Rs.7,000/- for wife and two children which, in my view, seems meagre, but since respondent-wife has acquiesced to the same by not taking any further legal recourse, I would refrain to make any comments on the same.

5. No material irregularity in law or procedure has been committed by the learned Court below, so as to exercise extraordinary revisional jurisdiction herein.

6. In the premise, revision petition is dismissed.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

January 20, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No