

CR-1875-2023 (O&M)

2023:PHHC:047333 1

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1875-2023 (O&M)

Date of Decision: 24.03.2023

Deepak

...Petitioner

Versus

Savita

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chanderhas Yadav, Advocate
for the petitioner.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-5482-CII-2023

Application is allowed as prayed for.

CR-1875-2023

The present Civil Revision petition has been filed challenging order dated 20.07.2019 (Annexure P-5) passed by Ld. District Judge, Jhajjar vide which an application filed by the respondent-wife under Section 24 of the Hindu Marriage Act (hereinafter referred to as 'the Act'), has been allowed and maintenance of Rs.5,000/- per month was allowed in her favour along with one time litigation expenses of Rs.5000/-.

Learned counsel for the petitioner argues that the order dated 20.07.2019 cannot be sustained, especially when the order passed by the Principal Judge, Family Court under Section 125 Cr.p.C. has not

been taken into account while passing the impugned order. Learned counsel for the petitioner further submits that the said order dated 20.07.2019 has been passed without assessing the means of the petitioner to pay the amount of maintenance *pendente lite*. Learned counsel submits that no maintenance could have been given in favour of the respondent-wife especially when the petitioner is maintaining his daughter.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

First argument of the counsel for the petitioner is that the impugned order dated 20.07.2019 has been passed without taking into consideration the order passed by the Family Court in respect of an application filed by the respondent-wife under Section 125 of the Act. Hence, the said order dated 20.07.2019 is totally cryptic and non-speaking and is liable to be set aside.

This argument is factually incorrect. The order which has been impugned in the present revision petition was passed on 20.07.2019, whereas the order which has been passed in the application and the petition under Section 125 of the Act, was on 02.03.2020. How can a order passed on 02.03.2020 could have been taken into consideration while passing order dated 20.07.2019. That being so, the argument which has been raised by the learned counsel for the petitioner is factually incorrect and cannot be accepted.

Further, only a sum of Rs.5000/- per month has been directed to be paid as maintenance *pendente lite* under Section 24 of the Act. The said amount cannot be treated to be exorbitant for maintenance.

Nothing has been mentioned as to on what account, the said maintenance

of Rs.5000/- can be treated as exorbitant. In the absence of any material brought on record to show that maintenance of Rs.5000/- is excessive, the argument that the maintenance amount fixed is exorbitant, is rejected.

The third argument which has been raised by the learned counsel for the petitioner is that he is maintaining his daughter, and therefore, is not capable of providing the said amount of maintenance. The maintaining of the wife as well as the children is the duty of the husband. Once, it has come on record that the wife has no source of income, which fact has not been rebutted by the learned counsel for the petitioner, merely that he is maintaining his daughter, does not mean that he has no liability to maintain his wife.

In the facts and circumstances of the present case, no ground is made out for interference by this Court.

Dismissed.

24.03.2023*ps-I***(HARSIMRAN SINGH SETHI)****JUDGE**

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