

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

CR-307-2024

Date of Decision: 19.01.2024

SANDEEP

..... PETITIONER

VS

SUMAN

.... RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Sushil Sheoran, Advocate for the petitioner.

GURBIR SINGH, J.

1. This petition is filed under Article 227 of Constitution of India read with Section 151 CPC for setting aside the impugned order dated 08.12.2023 (Annexure P-8) passed by learned Additional District Judge Charkhi Dadri whereby application moved by the petitioner for recalling the order dated 14.02.2023 has been dismissed.

2. The brief facts as culled out from the petition is that the petitioner married with the respondent who filed divorce petition under Section 13 of the Hindu Marriage Act for dissolution of the marriage. She moved an application under Section 24 of the Hindu Marriage Act. Vide order dated 14.02.2023 a sum of Rs. 5000/- per month was granted as maintenance pendente-lite along with litigation expenses of Rs.5500/-. The petitioner was further directed to pay a sum of Rs.500/- per hearing to the respondent/wife for court hearing.

The petitioner/husband has challenged the said order in this Court by filing the civil revision, which was dismissed.

3. Learned counsel for the petitioner has argued that he came to know that the respondent/wife has solemnized the second marriage with Surender and one female child was born on 10.10.2023 from the said marriage. Copy of marriage certificate issued by Sarpanch is annexed as Annexure P-3, copy of Aadhar card of respondent is annexed as Annexure P-4 and copy of birth certificate of child showing mother name as Suman-respondent and father name as Surender is annexed as Annexure P-5.

4. Due to changed circumstances, petitioner moved an application that after solemnizing second marriage, respondent/wife is not entitled for maintenance in view of the Section 25 of the Hindu Marriage Act. The order passed by learned trial Court is non-speaking order. The respondent/wife is also well qualified as she admitted in a criminal case that she is MA/B.Ed. The learned trial Court has not considered the fact that the petitioner is paying the maintenance for a sum of Rs.3000/- per month under Domestic Violence Act.

5. I have heard the submissions of the learned counsel for the petitioner and gone through the file.

6. Section-25 of Hindu Marriage Act pertains to permanent alimony. Section-24 of Hindu Marriage Act deals with maintenance pendente-lite. Since the petition for divorce is still pending, provisions of Section 25 of Hindu Marriage Act are not attracted at all. The petitioner is an able bodied person. Nothing has been brought on record that respondent/wife is having any independent source of income.

Solemnizing second marriage by the respondent/wife during the pendency of the divorce petition is not a ground for recalling the order whereby maintenance pendente-lite has been awarded. The purpose of Section 24 of the Act is to provide sufficient financial support to the wife/husband as the case may be, so that she/he is able to prosecute or defend the petition.

7. In view of above, I do not find any illegality in the order passed by the learned Court below. The petition is without merit and dismissed accordingly.

(GURBIR SINGH)
JUDGE

19.01.2024
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No