

2024:PHHC:052464-DB
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-1428-2024
Date of decision: 01.04.2024

Vikram Jeet Kalra

....Appellant

Versus

Renu

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Gorav Kathuria, Advocate for the appellant

SUDHIR SINGH,J.

CM – 5644 – CII – 2024

Heard.

As prayed for in the application, the delay of 41 days
in filing the appeal has been condoned.

FAO-1428 -2024

The present appeal is directed against the order dated 07.12.2023 passed by the learned Family Court, Panipat, whereby an application under Section 24 of the Hindu Marriage Act, 1955 (for short 'the Act'), filed by the respondent-wife, was allowed and the appellant-husband was directed to pay the respondent-wife an interim maintenance to the tune of Rs.3,000/- per month from the date of filing the application along with the litigation expenses of Rs. 2,200/-.

2. The aforesaid application under Section 24 of the Act, had been filed by the respondent-wife contending therein that

her marriage with the appellant-husband was solemnized on 03.07.2010 according to Hindu rites and that a male child was born out of the said wedlock on 14.10.2012. It was further averred by her that the appellant-husband used to remain under the influence of liquor and that he had disposed of his property with a view to start a business. The appellant-husband and his family members used to harass her for want of more dowry and he asked the respondent-wife to bring more money from her parents so that he could start his new business. The appellant-husband would issue life threats to her and faced with the said situation, she alongwith her minor child, had left her matrimonial home and sought refuge in her parental house. It was further stated by her that she had no source of income, whereas the appellant-husband was earning about Rs.60,000/- per month from his mobile business. Accordingly, she had demanded a sum of Rs.25,000/- per month as maintenance pendete-lite and litigation expenses.

3. Upon notice, the appellant-husband appeared and filed reply to the application contending therein that the application had been filed on wrong facts; that the respondent-wife being the only child of her parents, left the matrimonial home, with a motive to give her child to her parental family. It was further stated that the respondent-wife was an educated lady and was earning a handsome amount by giving tuitions. It was further stated that the appellant-husband was working as a courier rider and earning Rs. 8,000/- to Rs.10,000/- per month

but, subsequently, he had suffered a serious injury in his eye and due to his vision problem, he was unable to do any work.

4. Learned counsel appearing for the appellant-husband has vehemently argued that the appellant is not in a position to do any job due to his vision disability. In this regard, he has referred to Annexure P.1, a disability certificate issued by Medical Authority, Faridabad, indicating that the appellant is a case of blindness to the extent of 60% in both eyes. It is further contended that the appellant-husband has no movable or immovable property, so as to maintain the respondent-wife and their minor child.

5. We have heard the learned counsel for the appellant and have also gone through the paper book.

6. The short issue that arises for consideration is whether the appellant-husband is legally bound to maintain the respondent-wife and their minor children.

7. The factum of marriage and birth of a male child out of the wedlock is not disputed. The stand of the appellant-husband is that because of his vision disability, he is not able to do any job and therefore, he is not in a position to pay the interim maintenance amount to the respondent-wife.

8. We do not find any merit in the said argument of the learned counsel for the appellant. As noticed above, the stand of the appellant is that in view of him being 60% blind, he is unable to do any job and, therefore, he could not maintain his wife and minor child. However, as noticed by the learned Family Court, the appellant-husband in a petition filed by him for the

custody of the minor child, under the Guardians and Wards Act, 1890, had pleaded that he was having movable and immovable properties and sufficient means for the better future and study of the minor child. During the course of hearing, learned counsel for the appellant could not controvert the said fact. The said fact, thus, clearly implies that the appellant can very well maintain his wife out of the properties owned by him. Further, it may be noticed that grant of maintenance to the tune of Rs. 3,000/- p.m., does not seem to be on the higher side and rather taking into consideration the high price index, the same is on the very much on the lower side. Such an amount is considered to be the bare minimum in order to survive in a society where basic necessities such as food, healthcare and transportation consume a substantial portion of earnings, leaving a little room for the savings or discretionary spending.

9. As would emerge from the order passed by the trial Court, though the appellant-husband had pleaded that the respondent-wife was an educated lady and was earning from imparting tuitions, yet no evidence in this regard was brought on record. Still further, the appellant was unable to bring on record that he was not possessed of sufficient means to pay the maintenance amount to the respondent-wife. Thus, we find that the appellant-husband is legally bound to maintain the respondent-wife.

10. Hon'ble Apex Court in **Captain Ramesh Chander Kauhsal vs. Mrs. Veena Kaushal & Ors. (1978) 4 SCC 70,**

while considering the object of maintenance laws, held as under:-

“9. This provision is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15 (3) reinforced by Article 39. We have no doubt that section of statutes calling for construction by courts are not petrified print but vibrant words with social functions to fulfill. The brooding presence of the constitutional empathy for the weaker sections like women and children must inform interpretation if it has to have social relevance. So viewed, it is possible to be selective in picking out that interpretation out of two alternatives which advances the cause – the cause of derelicts.”

11. Thus, we find that the findings recorded by the learned trial Court do not suffer from any patent illegality or perversity. Consequently, finding no merit in the present appeal, the same is dismissed.

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

(Sudhir Singh)
Judge

(Harsh Bunker)
Judge

01.04.2024
ds/Ajay Prashar

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