

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

149

CR-2642-2024 (O&M)

Decided on: 10.07.2024

SANJAY CHORASIA

...Petitioner

Versus

VIMLA CHORASIA @ POONAM

...Respondent

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Jarnail Singh Saneta, Advocate
for the petitioner.

RITU TAGORE, J.

1. This revision is directed against the order dated 23.02.2024 (Annexure P-4) passed by learned Principal Judge, Family Court, Panipat whereby learned Family Court Judge, directed the petitioner-husband to pay *pendente lite* maintenance under Section 24 of Hindu Marriage Act, 1955 (hereinafter referred to as 'HMA') to the respondent-wife at the rate of Rs.5,000/- per month from the date of filing of petition along with litigation expenses of Rs.5,000/-.
2. Aggrieved by the order, petitioner-husband filed the instant petition, praying for setting aside the same, being arbitrary, against facts and law.

3. Learned counsel states that marriage of the parties was solemnized on 10.07.1999 as per Hindu rites and ceremonies, in a simple manner. No dowry was taken or given at the time of marriage. Three children, now aged 16, 14 and 10 years respectively, were born from the wed lock.

4. Learned counsel further submits that, due to various acts of matrimonial misconduct committed by the respondent-wife against the petitioner, compelled him to file a petition (Annexure P-1) under Section 13(1) (i-a) HMA against her. In an application filed by respondent under Section 24 HMA (Annexure P-2), learned Family Court, Panipat, without going into the pleadings and assertions of the petitioner fixed an exorbitant *pendete lite* maintenance at Rs.5000/- per month. Learned counsel submits that petitioner is a petty daily wager, earning a meager amount of Rs.8000/- per month and has responsibility of three children on his shoulders. With his claimed earnings, he is unable to maintain himself and children. It is urged that the respondent earns about Rs.20,000/- per month from stitching work with no responsibilities on her shoulder. It is stated that Section 24 HMA provides for grant of maintenance to a spouse who has no sufficient independent source of income to maintain himself or herself and cover necessary expenses of litigation. In this case, it is stated that respondent has sufficient independent source of income to maintain her. The learned Family Court overlooked this aspect and committed a serious jurisdictional error in allowing the application under Section 24 of HMA. A prayer is made to set aside the same.

5. I have heard the learned counsel, perused the order and find no ground to interfere in the same.

6. Section 24 HMA has been enacted to provide relief by way of maintenance and litigation expenses to a spouse unable to maintain his/herself during the proceedings for divorce, dissolution of marriage or judicial separation under the HMA. It is a benevolent provision. In every proceeding, there is bound to be some allegation or the other, pertaining to matrimonial misconduct and Court would not be in position to judge the merits of the rival contentions when deciding an application for interim maintenance. However, the Court should not allow its discretion to be fettered by nature of the allegations made by them and examine the merits of the case. The right to maintenance is an incident of the status from an estate of matrimony. The Court must take into consideration the status of the parties, capacity of the spouse to pay maintenance, and any independent income of the applicant, if any, sufficient for his or her support. Maintenance is always dependent upon the factual situation.

7. Incontrovertibly, the parties to the *lis* are in a matrimonial bond. Learned counsel for petitioner failed to present any material or point out from the pleadings or other material to *prima facie* suggest that respondent is doing the stitching work and has the claimed earnings. Furthermore, learned counsel for the petitioner was unable to refute the observation made by the learned Family Court that the petitioner's son stated before the Court that his father deals in export of stitching materials with his uncle. This indicates that the petitioner is not a labourer but is, in fact, engaged in the export business of stitching materials. Before this Court, there is no material on record to ascertain the actual monthly income of the petitioner. The plea of the petitioner that he is doing labour work and is earning Rs.8000/- per month has become questionable in the face of the statement made by his son in the Court. Furthermore, even a casual worker, in our economy these days, does

not earn less than Rs.18,000–20,000/- per month. Considering all these facts of this case and high cost of living in these days, the grant of Rs.5000/- per month cannot be said to be excessive.

8. In the light of the above discussion, this Court finds no scope of interference in the judicious discretion exercised by the learned family Court. Accordingly, the revision petition is dismissed.

09. It is noted that the observations made above should not be construed as an expression of opinion on the merits of the case. Same are purely confined to the present controversy and deliberations.

10. Pending applications, if any, also stand disposed of accordingly.

(RITU TAGORE)
JUDGE

10.07.2024
Rimpal

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