



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

FAO-2397-2024 (O&M)

Date of Decision: 17.05.2024

DEEPAK KUMAR

...Appellant

Versus

SAPNA

...Respondent

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

Present:- Mr. Sandeep Yadav, Advocate for appellant.

SUDHIR SINGH, J.

The present appeal is directed against the order dated 20.03.2024, passed by learned Principal Judge, Family Court, Jhajjar whereby while disposing of an application under Section 24 of Hindu Marriage Act (hereinafter referred as 'the Act'), filed by the respondent-wife, an amount of Rs.7,000/- per month has been awarded as maintenance pendent-lite to the respondent-wife from the date of filing of the application, besides a sum of Rs.5500/- as litigation expenses.

2. The aforesaid application was filed by the respondent-wife in the divorce petition filed by the appellant-husband under Section 11 read with Section 5(i) of the Hindu Marriage Act. The said petition is pending before the learned Family Court, Jhajjar. In her

2024:PHHC:070097-DB



application, the respondent-wife had sought an amount of Rs. 40,000/- as maintenance pendent-lite and one time litigation expenses as Rs.22,000/- from the appellant-husband stating therein that she was unable to maintain herself and the two minor sons. It was further pleaded by her that the appellant-husband was serving in ITBP as a Constable and drawing a salary Rs.70,000/- per month, besides having movable and immovable properties.

3. The learned Family Court, while granting the maintenance pendent-lite of Rs.7,000/- per month, found that as per the affidavit of income, assets and expenditure furnished by the respondent-wife, her qualification was matriculation and she was a home maker, having no source of income, whereas on the other hand, from the similar documents filed by the appellant-husband, it was found that he was doing the Government job and drawing the salary of Rs. 45,561/- per month. It was further found that the question of the marriage being null and void, was to be decided later on and as on the date of adjudicating the application under Section 24 of the Act, the marriage between the parties was still subsisting. The stand taken by the appellant-husband that he had the liability of his mother, two sisters and two brothers, was also considered and accordingly the amount of maintenance pendent-lite as noticed above, was awarded in favour of the respondent-wife.

4. We have heard learned counsel for the appellant-husband and have also gone through the impugned order passed by learned Family Court.

2024:PHHC:070097-DB



5. The short issue that requires to be considered by this Court is whether the order passed by the learned Family Court requires any interference.

6. Admittedly, the divorce petition filed by the appellant-husband is still pending adjudication before the learned Family Court. Though the appellant-husband is seeking dissolution of his marriage by way of decree of nullity from the learned Family Court, yet the said issue is yet to be adjudicated on the basis of the evidence to be led by the parties. The fact remains that till such adjudication is arrived at by learned Family Court, the respondent would be considered as a legally wedded wife of the appellant-husband. It being so, the appellant-husband is statutorily bound to maintain the respondent-wife and, therefore, he cannot shirk his liability to maintain the respondent-wife. It is settled law that where the wife is not possessed of sufficient means to maintain herself or the children born out of the wedlock, the husband is liable to maintain them by paying a suitable amount sufficient for their maintenance and survival.

7. The salary of the appellant-husband has been proved on record as Rs.41,851/- after mandatory deduction of NPS contribution and income tax etc. Therefore, grant of maintenance of Rs.7,000/- per month can neither be said to be unjustified nor to be on the higher side.

8. In view of the above, we do not find any patent illegality or perversity on the impugned orders passed by the learned family Court.

2024:PHHC:070097-DB



9.

Finding no merit in the present appeal, the same is hereby dismissed.
10.

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

[SUDHIR SINGH]
JUDGE

[HARSH BUNGER]
JUDGE

17.05.2024
Himanshu

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