

S. No.129

2024:PHHC:091842



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

**CR No.3434 of 2024
Date of Decision: 22.07.2024**

Shefali WaliaPetitioner
Vs.
Naresh Kumar Walia and anotherRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Surinder Gandhi, Advocate for the petitioner.

DEEPAK GUPTA, J.

Petitioner is aggrieved by the order dated 17.02.2024 (Anneuxre P.5) passed by learned Additional District Judge, Chandigarh whereby her application to strike off the defence of the opposite party for non-payment of the maintenance pendente-lite, has been dismissed in HMA No.833 of 2019 – Naresh Kumar Walia Vs. Shefali Walia.

2. As the paper book would reveal that husband – Naresh Kumar Walia (respondent herein) filed a petition under Section 13 of the Hindu Marriage Act for dissolution of the marriage against wife – Shefali Walia (petitioner herein). During pendency of that petition, application was moved by the wife – petitioner to strike off the defence and to dismiss the petition for non-payment of the arrears of maintenance.

3. The application has been dismissed after observing that entire arrears of maintenance amount till December, 2023 had already been paid.

It was noticed by the Court that initially an amount of ₹20,000/- per month



was allowed as maintenance pendente-lite, which was enhanced by the High Court to ₹1,50,000/- per month. The husband preferred SLP before the Hon'ble Supreme Court where the same was reduced to ₹1 lakh per month. The husband also produced an order dated 08.01.2024 of Hon'ble Supreme Court wherein it was observed that husband had handed over two demand drafts for a total sum of ₹15,25,000/- to the counsel for the wife which has been accepted. After taking into consideration the amount earlier paid and that a total amount of ₹34 lakhs stood paid, the trial Court found that maintenance amount had been paid till December, 2023.

4. It is contended by learned counsel that apart from the divorce petition, the petitioner- wife had also moved an application under Section 23 of the Protection for Women from Domestic Violence Act, 2005, (for short, 'the 2005 Act') in which the Court had asked to pay an amount of ₹80,000/- per month by the husband in her favour. Learned counsel contends that husband is in arrears of that amount as ordered vide order dated 21.09.2023 (Annexure P.1) and for this reason, the petition for divorce deserves to be dismissed.

5. After hearing learned counsel, this Court does not find any merit in this petition. In case there is violation of any order passed in the proceedings pertaining to the 2005 Act, the necessary application can be moved before the Court of Judicial Magistrate concerned. As far as, the divorce petition is concerned, all the arrears of maintenance pendente-lite amount stood paid till December, 2023 as has been observed.



6.

As such, for non-payment of the amount, allegedly liable to be paid under the provisions of the 2005 Act, the petition for divorce cannot be rejected.
7.

This Court does not find any illegality in the impugned order.
8.

Dismissed.

July 22, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No