

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-F-303-2021 (O&M)

Date of order: 04.03.2024

Sarvesh Kumar Pal

.....Petitioner(s)

Vs.

Sushma Pal

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vaibhav Narang, Advocate
for the petitioner.

None for the respondent.

Nidhi Gupta, J.

Challenge in the present petition is to order dated 09.08.2021 passed by learned Additional Principal Judge, Family Court, Ludhiana, whereby in an application filed by the respondent/wife under Section 125 Cr.P.C., an amount of Rs.15,000/- per month has been granted as interim maintenance to the respondent/wife from the date of filing the application in case bearing No.MNT 869/2019 instituted on 15.01.2019.

2. Learned counsel for the petitioner inter alia submits that the petitioner was married to the respondent on 14.03.2016. From the very beginning of the marriage, the respondent used to harass the petitioner. Thereafter, the respondent left the matrimonial home, and filed the present petition under Section 125 Cr.P.C. for grant of maintenance allowance on 15.01.2019 (Annexure P1). Learned counsel submits that the petitioner and the respondent are in fact first cousin brother and sister and as such, marriage between them is null and void as they fall within the

prohibited degree of relationship. It is stated that the respondent is the daughter of real maternal uncle of the petitioner as the petitioner's mother, and father of the respondent are real brother and sister. Accordingly, marriage between the petitioner and the respondent was null and void and therefore, application filed by the respondent was not maintainable.

3. No other argument is made on behalf of the petitioner.

4. I have heard learned counsel for the petitioner and perused the case file in detail.

5. The question whether the petitioner and the respondent are first cousins and fall within the prohibited relationship as per Section 5(iv) of the Hindu Marriage Act, 1955, will be proved by the parties at the time of leading of evidence. At this stage, the said plea on part of the petitioner is not admissible in view of the fact that the petitioner himself had filed a petition under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of his relationship with the respondent.

Furthermore, as per the affidavit filed by the petitioner, he has admitted therein that he is in Government employment; he is owner of Honda Activa valued at Rs.25,000/-; and he is living in rented accommodation where he is paying rent of Rs.9,000/- per month. The petitioner had also placed on record his salary certificate before the learned Family Court wherein as on January 2021, he has shown his total salary to be Rs.47,948/- per month.

6. Learned counsel for the petitioner is unable to dispute the above said facts.

7. As such, I find no ground is made out to interfere in the

impugned order. The present petition is hereby **dismissed**.
8. Pending application(s) if any also stand(s) disposed of.

04.03.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No