

2024:PHHC:114441-DB



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

FAO-4156-2024 (O&M)

Date of decision: 03.09.2024

RAHUL CHAUHAN

...Appellant

Versus

CHINKI

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Padamkant Dwivedi, Advocate for appellant.

SUDHIR SINGH, J.

CM-15198-CII-2024

For the reasons given in the application, the same is allowed and the delay of 73 days in filing the appeal is condoned, subject to all just exceptions.

FAO-4156-2024

Challenge in the present appeal is to the order dated 06.05.2024, passed by the Additional Principal Judge, Family Court, Sonipat (for short the 'Family Court'), whereby an application under Section 24 of the Hindu Marriage Act (for short 'the Act'), filed by the respondent-wife (petitioner before the Family Court) has been disposed of and the appellant-husband (respondent before the Family

Court) has been directed to pay a sum of Rs.17,000/- per month as maintenance *pendent lite* to the respondent-wife.

2. Learned counsel appearing for the appellant-husband has vehemently argued that while passing the impugned order, the learned Family Court has fell in error of fact and law inasmuch as it was totally ignored that the income of Rs.40,000/- to 50,000/- per month of the appellant-husband is a flexible income and presently the appellant-husband is not earning more than Rs.30,000/- per month. It is further submitted that the income of the appellant-husband has, thus, wrongly been assessed by the learned Family Court, while granting maintenance *pendent lite* to the respondent-wife. It is yet further submitted that the respondent-wife is living on the second floor of the house; that the rent of the ground floor is also being collected by her and that the half built portion of the first floor has also been rented out and that rent too, is also been collected by her. It is further argued that the appellant-husband, his parents and brother have been forced by the respondent-wife to leave their house. It is, thus, argued that the impugned order passed by the learned Family Court, is not tenable in the eyes of law and the same is liable to be set aside.

3. We have heard learned counsel for the appellant and have also gone through the impugned order passed by the Court below.

4. Vide the impugned order, while disposing of an application of the respondent-wife, it has been found by the learned Family Court that as the appellant-husband, his brother and mother

were residing together whereas his father was residing separately and, therefore, the stand of the appellant-husband that he was spending Rs.20,000/- on the treatment of his parents was not tenable. Still further, the plea of the appellant-husband that he was paying a sum of Rs.6,000/- as rent alone was also not accepted.

5. On the other hand, it was found that the respondent-wife was not earning anything and was doing Law. Therefore, considering the income of the appellant-husband as Rs.50,000/- per month and further taking into account that there was no other liability on his shoulder, the learned Family Court awarded the aforesaid amount of Rs.17,000/- per month to the respondent-wife as maintenance *pendent lite*.

6. It is settled law that an application for maintenance *pendent lite* is to be decided on the basis of the parallel resources of the parties. In the instant case, it was found that the husband-appellant was earning Rs.50,000/- per month and the respondent-wife was unemployed. Thus, it cannot be said that the amount awarded as maintenance *pendent lite* is either on the higher side or unjustified.

7. In view of the above, we do not find any illegality or perversity in the findings recorded by the learned Family Court.

8. No other point has been urged.

9. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

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

11. At this stage, learned counsel for the appellant submits that if the matter is referred to the Mediation and Conciliation Centre, there may be chances for an amicable settlement.

12. As the divorce petition is pending before the learned Family Court, liberty is reserved to the parties, if so advised, to have the matter referred to the Mediation and Conciliation Centre for One Time Settlement, from the said Court.

[SUDHIR SINGH]
JUDGE

[JASJIT SINGH BEDI]
JUDGE

03.09.2024
Himanshu

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