

2024:PHHC:118093-DB



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

FAO-4267-2024 (O&M)

Date of decision: 09.09.2024

KAMAL MAINI

...Appellant

Versus

NATASHA

...Respondent

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

Present:- Mr. Vipul Goel, Advocate for appellant.

SUDHIR SINGH, J.

Challenge in the present appeal is to order dated 16.07.2024 passed by the learned Principal Judge, Family Court, Hoshiarpur (hereinafter referred as to Family Court), whereby. while allowing an application under Section 24 of the Act filed by the respondent-wife, she has been awarded a sum of Rs.10,000/- per month as maintenance *pendent lite* from the date of filing of said application.

2. In a petition under Section 13 of the Hindu Marriage Act (hereinafter referred as 'the Act') filed by the respondent-wife, she had also filed an application under Section 24 of the Act seeking maintenance *pendent lite* averring therein that her marriage with the appellant-husband was solemnized on 10.11.2016, according to Hindu

rites and one male child was born out of the said wedlock, who was studying in Class 10th. It was further the case of the respondent-wife that she did not have any movable or immovable property and that she was working in Vodafone Idea Limited Company as FD First Desk, and that after the period of lockdown, her salary had been reduced to Rs.10,000/- per month. It was further alleged that she along with her son and mother was residing in a rented accommodation and paying a rent of Rs.6500/- per month. It was yet further averred that in the proceedings under the provisions of Protection of Women from Domestic Violence Act, 2005, she had been awarded a sum of Rs.2000/- per month in the year 2017 and Rs.3500/- per month as rental accommodation, but maintenance under Section 125 Cr.P.C. was declined, whereas the maintenance of the minor child was enhanced to Rs.5000/- per month. It was further averred that the appellant-husband was running a garment house in Model Town Ludhiana and was earning a sum of Rs.80,000/- per month. Accordingly, she had prayed for grant of Rs.25,000/- per month as interim maintenance to herself and her child besides claiming Rs.35,000/- as litigation expenses.

3. The aforesaid application of the respondent-wife was contested by the appellant-husband averring therein that the respondent-wife was earning Rs.16,000/- per month besides getting maintenance of Rs.2000/- under the Domestic Violence Act and a sum of Rs.5000/- per month, as a maintenance, was being paid to the son of the parties under Section 125 Cr.P.C. The factum of running a garment shop was denied and rather, it was contended that he was

doing the business of trading and was earning only a sum of Rs.20,000/- per month.

4. The parties were directed to file requisite affidavits of income, assets, expenditure and liabilities as directed by the Hon'ble Supreme Court in **Rajnish Vs. Neha & Anr.**, (2021) 2, Supreme Court Cases 324. The learned Family Court, on the basis of the documents on record, found that the appellant-husband had produced on record the copy of his bank account statement and a perusal thereof showed that there was credit of approximately Rs.80,000/- per month therein. So, the income of the appellant-husband was assessed between 40,000/- to 50,000/- per month. It was under these circumstances that after taking into consideration the maintenance amount already being paid to the respondent-wife and her son, the learned Family Court has awarded the respondent-wife a sum of Rs.10,000/- per month as maintenance *pendent lite*.

5. It is settled law that while deciding an application under Section 24 of the Act, the Court is to examine parallel sources of income of the parties and it is only thereafter, the maintenance amount is to be determined and awarded. In the instant case, it has been proved that the appellant-husband is earning a sum of Rs.40,000/- to 50,000/- per month. Thus, even if the amount of maintenance of Rs.2000/- per month being received by the respondent-wife under the Protection of Women from Domestic Violence Act; Rs.5000/- per month awarded to their son under Section 125 Cr.P.C. and a further amount of Rs.3000/- per month being paid as rental expenses, are taken into consideration, we find that the award of Rs.10,000/- as

maintenance *pendent lite* by the learned Family Court, cannot be said to be on the higher side. The respondent-wife has not only to maintain herself, but also the minor son of the parties, besides incurring the expenses of said child.

6. No other point has been urged.
7. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.
8. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[JASJIT SINGH BEDI]
JUDGE

09.09.2024
Himanshu

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