



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CR-5403-2024 (O&M)
Date of Decision : 18.09.2024

SANJEEV KUMAR Petitioner

VERSUS

BHAVYARespondent

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rose Gupta, Advocate and
Ms. Yashika Walia, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 17.07.2024 (Annexure P-13) passed by the learned Additional Principal Judge, Family Court, Hisar whereby an application (Annexure P-7) for grant of interim maintenance filed by the daughter of the petitioner (respondent herein) has been partly allowed.
2. The Hon’ble Division Bench of this Court in a judgment dated 24.01.2024 passed in **FAO-5930-2023** titled as **Rajni V/s Mohit** has held as under :

‘23. A decision of the Family Court on the application under Section 24 of the Act involves adjudication and determination of the right of the parties conclusively. In other words denial of the pendente lite maintenance and expenses of proceedings would seriously prejudice the

rights of the applicant, who has no independent income sufficient for his or her maintenance and to contest the proceedings. On the other hand inability to pay pendente lite maintenance and expenses of the proceedings by the spouse having no independent income, would cause serious prejudice and result in severe civil consequences. Thus decision of the Family Court under Section 24 of the Act 1984 conclusively decides the right of the parties regarding pendente lite maintenance and expenses of proceedings.

24. Therefore, in view of the foregoing discussions, we hold that a decision rendered by the Family Court under Section 24 of the Hindu Marriage Act, is not an interlocutory order and rather it is a 'judgment', which is amenable to appeal under section 19(1) of the Family Courts Act, 1984. The issue as indicated above is, accordingly, decided.

3. Further, the Delhi High Court in **Jayanti Prasad Gautam V/s Pragya Gautam [2018 SCC Online Del 11535]** in para No.4 has held as under :

'4. The reasons which prevailed in Manish Aggarwal supra for holding orders of interim maintenance under Section 24 of the Hindu Marriage Act to be appealable under Section 19(1) of the Family Courts Act equally

apply to grant of interim maintenance under Section 20 of the Hindu Adoption and Maintenance Act which inter alia provides for maintenance of children. I may in this regard record that though Section 24 of the Hindu Marriage Act provides for an order of interim maintenance of spouse only but Section 26 thereof empowers the Court to "from time to time, pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to custody, maintenance, education of minor children.....". When an order fixing maintenance of minor children in exercise of powers under Section 26 of the Marriage Act has been made appealable under Section 19(1) of the Family Court Act, there is no reason to hold that an order of interim maintenance of children under Section 20 of the Hindu Adoption and Maintenance Act is not appealable.'

4. In view of the above, the impugned order is thus amenable to appeal under Section 19(1) of the Family Courts Act, 1984. Faced with the same, learned counsel for the petitioner seeks permission to withdraw the present petition with liberty to avail his remedies as available in law.

5. Dismissed as withdrawn with the liberty aforesaid. Pending applications, if any, also stand disposed off.

18.09.2024

Aman Jain

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No