

2024:PHHC:122032-DB



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

FAO-4376-2024 (O&M)

Date of decision: 13.09.2024

ALISHA KAPOOR

...Appellant

Versus

SAHIL KAPOOR

...Respondent

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

Present:- Mr. Anshumaan Dalal, Advocate for appellant.

SUDHIR SINGH, J.

CM-16079-CII-2024

For the reasons given in the application, the same is allowed and delay of 79 days in filing the appeal is condoned, subject to all just exceptions.

FAO-4376-2024

Challenge in the present appeal is to the order dated 21.03.2024 passed by the Learned Principal Judge, Family Court, Rohtak (for short 'the Family Court'), whereby an application under Section 24 of the Hindu Marriage Act (for short 'the Act') filed by the appellant-wife, has been allowed and an amount of Rs.6000/- per month has been awarded to the appellant-wife as maintenance *pendente lite* besides awarding a sum of Rs.2500/- per month to the minor son, Jiyansh, from the date of filing of the application.

2. The respondent-husband filed a divorce petition under Section 13 of the Act. In the said petition, the appellant-wife had

moved the aforesaid application under Section 24 of the Act, asserting that she did not have any source of income, whereas the respondent-husband was running a partnership business of manufacturing and supply of jeans at Delhi. It was further averred that the respondent-husband was earning a sum of Rs.1,50,000/- to Rs.2,00,000/- per month, approximately, and that he had no liability.

3. The respondent-husband filed reply to the said application. The averments of the appellant-wife that she was not having any source of income were denied. It was also denied that the respondent-husband was running any partnership business at Delhi and earning a sum of Rs.1,50,000/- to Rs.2,00,000/- per month. It was further asserted that the respondent-husband was working as a salesman and was earning a sum of Rs.5000/- and Rs.6000/- per month.

4. Learned Family Court, after taking into consideration the rival contentions and parallel sources of income of both the parties, assessed the income of the respondent-husband at par with minimum wages for Level-IV job roles in District Rohtak as per Nigam Wage Rates under Haryana Kaushal Rojgar Nigam i.e. Rs.20,350/- to Rs.24,420/- per month and, accordingly, awarded a sum of Rs.6000/- per month to the appellant-wife and Rs.2500/- per month to the minor child. The appellant-wife was also held entitled to sum of Rs.11,000/- as litigation expenses.

5. Learned counsel for the appellant-wife has vehemently argued that the amount of *pendent lite* maintenance awarded by learned Family Court, is on the very lower side. It is further submitted

that the appellant-wife is incurring expenses of Rs.11,309/- for quarterly fee of the minor child besides incurring a sum of Rs.35,000/- per month for herself and the minor child. It is further argued that the learned Family Court has failed to take into consideration that the respondent-husband has been earning a sum of Rs.1,50,000/- per month from the business of his partnership in M/s Gulshan Enterprises at Tank Road, Karol Bagh, New Delhi. It is, thus, submitted that the impugned order passed by the learned Family Court be modified and the maintenance amount awarded to the appellant may be enhanced to Rs.35,000/- per month.

6. We have heard learned counsel for the appellant-wife and have also gone through the impugned order passed by the learned Family Court.

7. Vide the impugned order the appellant-wife and the minor son have been awarded maintenance *pendent lite* @ Rs.6000/- per month and Rs.2500/- per month respectively. It was found by the learned Family Court that though the appellant had produced photocopy of the visiting card of M/s Gulshan Enterprises at Tank Road, Karol Bagh, New Delhi, wherein the name and mobile number of the respondent-husband had been mentioned, yet the same was yet to be proved during evidence. It was further found that the G.S.T. registration certificate of the aforesaid company was filed by the respondent-husband, wherein the business was recorded as proprietorship business of one Gulshan Kumar. There was no other evidence or material on record to indicate or establish that the respondent-husband was earning an amount of Rs.1,50,000/- to

Rs.2,00,000/- per month. It was under these circumstances that the learned Family Court had assessed the income of the respondent-husband at par with minimum wages for Level-IV job roles in District Rohtak as per Nigam Wage Rates under Haryana Kaushal Rojgar Nigam i.e Rs.20,350/- to Rs.24,420/- per month.

8. We find that in the absence of income of the respondent-husband as claimed by the appellant-wife, having been proved on record, the order passed by the learned Family Court, cannot be found fault with. The learned Family Court in the absence of any material or evidence on record had assessed the income of the respondent-husband at Rs.20,350/- to Rs.24,420/- per month. The said finding does not suffer from any illegality or perversity warranting any interference by this Court, in the present appeal.

9. No other point has been urged.

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

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

[SUDHIR SINGH]
JUDGE

[JASJIT SINGH BEDI]
JUDGE

13.09.2024
Himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No