



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

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CRA-S-246-2022 (O&M)
Date of decision : 04.04.2025

Rajnish Singh Chaudhary

....Appellant

V/S

Dr. Purnima Thapar

....Respondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Parminder Singh, Advocate for the appellant.

NAMIT KUMAR, J. (ORAL)**CRM-4940-2022**

Prayer in the instant application filed under Section 482 of
Cr.P.C. is for placing on record Annexures A-1 to A-20.

Allowed as prayed for.

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1. The appellant has filed the instant appeal against the order dated 25.02.2020 passed by learned Additional Principal Judge, Family Court, Jalandhar, whereby a petition filed by the appellant under Section 340 of Cr.P.C. for conducting an enquiry regarding the submission of false evidence and affidavit by the respondent-wife and further forwarding the said matter to learned Judicial Magistrate First Class, Jalandhar to try the accused/respondent under Sections 192, 193, 196, 197, 199 & 200 of Indian Penal Code, 1860 (for short 'IPC') has been dismissed.



2. Brief facts of the case are that on 31.07.2015, the appellant-husband had filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'H.M. Act') against the respondent-wife. During the pendency of the said petition, the respondent-wife had filed a petition under Section 24 of the H.M. Act for grant of maintenance pendente-lite. Along with the said application, she had also furnished an affidavit wherein she had submitted that she has no independent source of income to maintain herself and her minor child and on the basis of the said affidavit, the Court of learned District Judge, Jalandhar, vide order dated 26.04.2016, has awarded a sum of Rs.15,000/- per month as maintenance pendente-lite and Rs.20,000/- as litigation expenses to her. Thereafter, the appellant has filed a petition under Section 340 of Cr.P.C. on 17.01.2018 for conducting an enquiry regarding the submission of false evidence and affidavit by the respondent-wife in the proceedings under Section 24 of the H.M. Act and further forwarding the said matter to learned Judicial Magistrate First Class, Jalandhar to try the accused/respondent under Sections 192, 193, 196, 197, 199 & 200 of IPC. The said petition has been dismissed vide impugned order dated 25.02.2020 passed by learned Additional Principal Judge, Family Court, Jalandhar. Hence, the present appeal.

3. Learned counsel for the appellant submits that along with an application under Section 24 of the H.M. Act for grant of maintenance, the respondent-wife has furnished an affidavit submitting therein that she has no independent source of income to maintain herself and her minor child, however, the appellant led evidence to prove on

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record that the respondent-wife is doctorate who done her Ph.D with Gold medal and when the petition under Section 24 of the H.M. Act was filed, she was working with Himachal Pradesh University, Shimla and got a sum of Rs.3,10,719/-, Rs.2,16,957/- and Rs.1,42,400/- for the financial years 2013-14, 2014-15 and 2015-16 from the said University. He further submits that the respondent is income tax payee and her income tax has been deducted by the University. She has also been a post doctoral fellowship holder getting an additional amount of Rs.28,000/- per month and annual contingency of Rs.20,000/- from Himachal Pradesh University and Indian Council of Social Science Research. Apart from that she is also earning by writing books, from paid research paper and articles which are published in prominent journals. She had also been working with Indira Gandhi National Open University. He submits that since the respondent has furnished wrong affidavit/evidence, therefore, she is liable to be punished under Sections 192, 193, 196, 197, 199 & 200 of IPC. He further submits that the learned Additional Principal Judge, Family Court, Jalandhar vide impugned order dated 25.02.2020 has wrongly dismissed the petition filed by the appellant under Section 340 of Cr.P.C. primarily on the ground that since the main petition under Section 13 of H.M. Act is pending, therefore, the complaint under Section 340 of Cr.P.C. based on submission of false affidavit during the pendency of the proceedings of the case is not maintainable. He submits that the proceedings arising out of the application under Section 24 of H.M. Act and the divorce petition have been dismissed vide separate orders dated 30.09.2019 passed by

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learned Principal Judge (South), Family Court, Saket, New Delhi and copies of both the orders were part of the petition filed under Section 340 of Cr.P.C., however, the same has been overlooked by the Trial Court. The findings of the Trial Court are erroneous and contrary to the facts and evidence brought on record. Therefore, the impugned order is liable to be set aside.

4. I have heard learned counsel for the appellant and perused the relevant documents.

5. Admittedly, the appellant-husband had filed a divorce petition under Section 13 of H.M. Act against the respondent-wife and during the pendency of the said petition, the respondent-wife had filed an application under Section 24 of H.M. Act for grant of maintenance along with an affidavit submitting that she has no source of income to maintain herself and her minor child. In his reply to the application under Section 24 of H.M. Act, the appellant has pleaded that the respondent-wife is a highly qualified doctorate-PHD and is earning hand. She has fixed income of Rs.30,000/- per month and is earning additional income from tuition and counselling Rs.80,000/- per month. She has written many books and apart from the royalty from the books, she is earning from paid research papers and articles which are published in prominent journals and is also working a free lancer and doing copyright work, e-mail response handling, proof reading, data entry and from the above said sources, she is drawing income of Rs.1,50,000/- per month. After considering the record of the case and the fact that in a petition under Section 24 of H.M. Act filed before

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learned Additional District Judge, Shimla, the respondent-wife was granted Rs.10,000/- per month as maintenance vide order dated 02.01.2015 passed in petition under Section 24 of H.M. Act, learned District Judge, Jalandhar, vide order dated 26.04.2016, has partly allowed the application filed by the respondent-wife under Section 24 of H.M. Act and awarded a sum of Rs.15,000/- per month as maintenance and Rs.20,000/- as litigation expenses to her. In the said order, no such finding was recorded qua furnishing of false affidavit by the respondent-wife. Moreover, the alleged false affidavit given by the respondent-wife did not impact the outcome of the case. Furthermore, the perusal of the record also reveals that an application for re-appraisal of maintenance granted to the respondent vide order dated 26.04.2016 has also been filed by the appellant and has not produced on record any order of the Court wherein there is any finding of the Court that a false affidavit has been furnished by the respondent-wife.

6. So far as the arguments raised by learned counsel for the appellant that the petition filed by the appellant under Section 340 of Cr.P.C. has been wrongly dismissed primarily on the ground that the main petition under Section 13 of H.M. Act which is still pending is concerned, the petition under Section 13 of H.M. Act filed by the appellant has been alleged to be transferred to New Delhi and vide order dated 30.09.2019 passed by learned Principal Judge (South), Family Court, Saket, New Delhi as Annexure A-3, the same was dismissed in default for non appearance of the appellant and not on merits. The appellant has also failed to intimate the fate of the petition under Section

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13 of the H.M. Act before the Family Court, Jalandhar, who has passed the impugned order dated 25.02.2020. In a matrimonial dispute between husband and wife both may have a personal motive to harass each other, however, the Court has to strike balance in a given situation and take rational decision.

7. In view of the above position, I do not find any ground to interfere with the impugned order dated 25.02.2020 passed by learned Additional Principal Judge, Family Court, Jalandhar. Consequently, the present appeal is dismissed.

04.04.2025*kothiyal***(NAMIT KUMAR)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No