IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO(FC) No.15 of 2024
Reserved on : 17.12.2025
Decided on : 31.12.2025

Dhananjay Kanwar. **...Appellant.**

Versus

Astha Thakur. **…Respondent.**

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1]

For the appellant : Mr. Bhupender Gupta, Sr. Advocate with Mr. Pranjal Munjal, Advocate.

For the respondent : Mr. Vikrant Thakur, Advocate.

Vivek Singh Thakur, Judge

Appellant, who was husband of the respondent, has preferred this appeal against order dated 02.04.2022 passed by learned Additional Principal Judge, Family Court, Hamirpur (H.P.), in HMA No.1 of 2019 titled as *'Astha Thakur vs. Dhananjay Kanwar'*, filed under Section 24 of Hindu Marriage Act, 1955 (in short 'HM Act'), whereby, allowing the petition preferred by respondent-Astha Thakur, a sum of Rs.25,000/- per month from the date of filing of the petition till

[1] *Whether the reporters of the local papers may be allowed to see the Judgment?* Yes

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decision of main petition and Rs.30,000/- as litigation expenses have been awarded.

2. Appellant-Dhananjay Kanwar and respondent-Astha Thakur were married with each other on 19.05.2014 as per Hindu rites and ceremonies.

3. On account of discord between the parties, respondent-Astha Thakur preferred a petition bearing HMA No.140 of 2016 under Section 13(1)(ia) of HM Act for dissolution of marriage. The said petition was not contested by the appellant-Dhananjay Kanwar, and resultantly, the marriage between the parties was dissolved vide *ex parte* judgment and decree dated 31.01.2018.

4. During pendency of petition bearing HMA No.140 of 2016 filed for dissolution of marriage, respondent had preferred a petition under Section 24 of HM Act bearing HMA No.42 of 2017 on 07.02.2017 for grant of maintenance *pendente lite* at the rate of Rs.20,000/- per month and expenses of proceeding at the rate of Rs.30,000/-. The said petition was allowed by Trial Court vide order dated 08.12.2017 granting maintenance *pendente lite* at the rate of Rs.15,000/- per month from the date of filing of the application/petition till the pendency of the petition filed for decree of divorce and litigation expenses of Rs.30,000/- in favour of respondent-Astha Thakur.

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5. On 18.04.2018, respondent-Astha Thakur preferred a petition under Section 25 of HM Act bearing HMA No.115 of 2018 for grant of permanent alimony and maintenance at the rate of Rs.50,000/- per month and Rs.30,000/- as litigation expenses.

6. During pendency of aforesaid petition bearing HMA No.115 of 2018, respondent-Astha Thakur preferred a petition under Section 24 of HM Act on 21.12.2018 bearing HMA No.1 of 2019 for grant of maintenance *pendente lite* at the rate of Rs.30,000/- per month and litigation expenses to the tune of Rs.30,000/-.

7. During pendency of HMA No.115 of 2018, petition bearing HMA No.1 of 2019 was allowed by Family Court vide order dated 02.04.2022 (impugned in present appeal) by awarding Rs.25,000/- per month as maintenance *pendente lite* from the date of filing of petition till decision of main petition and Rs.30,000/- as litigation expenses.

8. Admittedly, appellant-Dhananjay Kanwar remarried on 22.05.2021 and respondent-Astha Thakur remarried on 14.12.2022.

9. On 29.08.2023, respondent, Astha Thakur, made statement before the Trial Court that, as she had remarried on 14.12.2022, she did not press the petition bearing HMA No.115 of 2018 w.e.f. 14.12.2022, but with rider that she had been awarded

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maintenance as per order dated 02.04.2022 passed in HMA No.1 of 2019. The said order is impugned in the present appeal.

10. In the aforesaid backdrop, the present appeal has been filed on the grounds that inasmuch as no opportunity was granted to the appellant to lead evidence to rebut the contentions raised by the respondent regarding the means and assets of the appellant; the maintenance has been awarded by passing a non-speaking order, only on the basis of interim maintenance granted during the pendency of the divorce proceedings; ignoring the fact that the respondent was serving in the Army, but voluntarily left the service and thereafter started a Coaching Centre at Hamirpur, from which she was earning more than sufficient income for her maintenance; the respondent herself was guilty of not discharging matrimonial obligations and was finding a way to get rid of the appellant, as is evident from the petition filed under Section 13(1)(ia) of HM Act; ignoring the affidavit of the appellant, wherein he had specifically stated that he was dependent upon his parents and did not possess any assets to pay maintenance to the respondent; the appellant did not have sufficient means to pay maintenance, whereas the respondent was not destitute and was earning sufficient income from the Academy being run as a Coaching

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Centre; and ignoring the absence of authentic medical record to substantiate the ailment alleged to be suffered by the respondent.

11. Learned counsel for the respondent has supported the impugned order for the reasons enumerated therein.

12. I have heard learned counsel for the parties and have also gone through the record. Perusal of order sheets of the Trial Court reveals that after filing of petition bearing HMA No.1 of 2019, ample opportunities to file reply, respective affidavits of assets & liabilities and consideration of the application, whenever prayed, were granted by the Family Court. However, after filing of the affidavits of assets & liability, nothing material was placed on record in evidence to substantiate the plea taken in affidavits of assets & liabilities or to rebut the plea of the respondent taken in affidavit filed by her regarding her assets & liabilities.

13. It is also apt to record that an application filed to produce the documents on record was allowed vide order dated 01.10.2021. No effort was ever made by the appellant to prove the documents placed on record, in accordance with law. Even otherwise, these documents do not substantiate or corroborate the plea taken by the respondent in affidavits of assets & liabilities or rebut the plea taken by the respondent in her affidavit of assets & liabilities. The application was filed on

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21.12.2018 and was decided on 02.04.2022. Even after excluding the period during the COVID-19 pandemic, there were sufficient opportunities available to the parties to lead evidence in support of their respective contentions. Though it has been alleged by the appellant that the respondent was serving in the Army and, after voluntarily leaving the Army, she started a Coaching Centre at Hamirpur but, nothing has been placed on record to substantiate this fact.

14. Allegation with respect to failure on the part of respondent in discharging matrimonial obligations is also not sustainable, as the petition filed by her for dissolution of marriage was never contested by the appellant and *ex parte* decree was allowed to be passed, resulting in dissolution of marriage, which was never assailed by appellant, instead, the appellant thereafter remarried on 22.05.2021.

15. The plea regarding availability of sufficient means of maintenance is also not sustainable, as during the pendency of the divorce petition, the appellant was directed to pay maintenance *pendente lite* to the respondent at the rate of Rs.15,000/- per month, and there is nothing on record to depict that the said maintenance awarded in favour of the respondent was ever assailed by the appellant.

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16. Irrespective of the ailment alleged to be suffered by the respondent, the appellant was liable to pay maintenance *pendente lite*, which was awarded by the Family Court during the pendency of the main petition preferred under Section 25 of the Hindu Marriage Act. Therefore, the grounds formulated for assailing the impugned order are not sustainable.

17. There is nothing on record to rebut or dispute the findings returned by the Family Court with respect to capability of the appellant to pay the *pendente lite* maintenance. Nothing has been found on record to hold that findings returned by the Family Court are perverse or contrary to the factual matrix.

18. In view of above discussion, we are of considered opinion that there is no merit in the appeal. However, it is apt to record that application/petition for *pendente lite* maintenance was filed on 21.12.2018, which was allowed on 02.04.2022 from the date of filing of the application/petition till pendency of the main petition, whereas respondent has remarried on 14.12.2022 prior to withdrawing main petition. Therefore, respondent is not entitled for any maintenance after 14.12.2022 and thus, maintenance awarded in favour of respondent is payable w.e.f. 21.12.2018 to 14.12.2022 only.

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19. The appeal is disposed of in above terms, so also the pending application(s), if any.

(Vivek Singh Thakur)
Judge

(Romesh Verma)
Judge.

31st December, 2025
(Pardeep)

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