

Court No. - 39

Case :- FIRST APPEAL No. - 959 of 2023

Appellant :- Pushpendra Singh

Respondent :- Smt. Seema

Counsel for Appellant :- Kartikey Singh

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Rajendra Kumar-IV,J.

1. Heard Sri Kartikey Singh, learned counsel for the appellant and perused the record.
2. Challenge has been raised to the order dated 04.07.2023 passed by the learned Additional Principal Judge, Family Court, Mathura in Matrimonial Case No. 787 of 2020 (Pushpendra Singh Vs. Smt. Seema) passed with reference to the application filed under Section 24 of the Hindu Marriage Act, 1955.
3. By that order, the learned court below has provided for interim maintenance @ Rs. 2,500/- per month to the respondent and @ Rs. 1,500/- per month to the three children born from the marriage between the parties. Thus, Rs. 7,000/- per month has been awarded towards maintenance to sustain life and dignity of the wife of the appellant and three children born from the marriage between the parties. Also, learned court below has awarded Rs. 10,000/- towards one time legal expense to the respondent as also made provision to pay Rs. 200/- per date to the respondent in the proceedings instituted by the present appellant against the respondent.
4. Having heard learned counsel for the appellant and having perused the record, we find no good ground to interfere in the order passed by the learned court below. Undisputedly, the appellant is working with Central Paramilitary Force namely ITBP since December 2014. His monthly salary was disclosed to the learned court below Rs. 40,032/-.
5. While the appellant has levelled allegation of adultery against

the respondent and described his real brother as the adulterer, at present, we find, such ground may not be enough to assail the impugned order.

6. Insofar as adultery is concerned, the same may remain to be considered by the learned court below at the appropriate stage in the divorce proceedings, that are still pending.

7. At the same time, it being undisputed to the appellant, the respondent is his married wife and there are three children born from their marriage and further it being undisputed, the respondent does not have independent source of income to sustain with dignity four human lives, pending litigation between the appellant and the respondent, we find, the amounts awarded are wholly minimal in the context of the entirety of facts and circumstances of the case.

8. On the other hand, the appellant has available means to provide for such monthly maintenance and one time legal expense etc., considering his monthly salary to be in excess of Rs. 40,000/-. Insofar as the award has been made from the date of the application, again, we find no good ground to interfere with the same. Minimum amounts are required to be provided from the date of the claim being made to ensure the life and liberty of the respondent/estranged wife involved in a matrimonial discord situation is preserved with minimal dignity.

9. At present, Rs. 1,26,000/- is due and payable against the appellant towards arrears. In that regard, we feel some time may be granted to the appellant to clear the entire default.

10. While at one stage, learned counsel for the appellant sought to withdraw the present appeal, we have declined the request as the matter had been heard. We also do not propose to enhance the maintenance amount at this stage. At the same time, measures must be enforced to ensure due compliance of the

impugned order.

11. Accordingly, the present appeal is **disposed of** with the following directions :

(i) Subject to the appellant furnishing adequate security to the tune of 1,26,000/- to the satisfaction of the learned court below in the shape of other than cash or bank guarantee by 15.09.2023, no coercive measure shall be adopted against the appellant, subject to other conditions provided herein. The appellant may also deposit Rs. 10,000/- awarded towards legal expense within the same time.

(ii) As to the amount of Rs. 1,26,000/- being arrears of maintenance from March 2022 to August 2023, the appellant shall deposit Rs. 26,000/- on or before 31.10.2023 and the balance amount Rs. 1,00,000/-, in four equal quarterly installments of Rs. 25,000/- each, such installments being payable on or before 31.12.2023, 31.03.2024, 30.06.2024 and 30.09.2024 respectively.

(iii) The appellant shall continue to pay to the respondent or deposit before the learned court below, monthly maintenance allowance from the period September 2023 onwards as and when it becomes due under the terms of impugned order.

9. Any amount already deposited by the appellant may be adjusted towards payment/s to be made by the appellant towards the last installment/s.

10. All the amounts may be either paid to the respondent directly or be deposited by the appellant with the Court below within time indicated above. In the latter case the amount/s shall be released to the respondent, forthwith.

11. However, it is made clear, in the event of failure on part of the appellant to comply with any part of the order, coercive measures be revived from that stage without any further

reference to this Court.

12. Subject to the above compliance being made, the appellant shall move an application to expedite the proceedings before the learned court below.

Order Date :- 29.8.2023

Abhilash

(Rajendra Kumar-IV, J.) (S. D. Singh, J.)