

(2012) 03 P&H CK 0148

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Revision No. 1989 of 2012

Surender Kumar @ Sanjay

APPELLANT

Vs

Smt. Kiran Rani

RESPONDENT

Date of Decision: March 29, 2012**Acts Referred:**

- Constitution of India, 1950 - Article 227
- Hindu Marriage Act, 1955 - Section 13, 24

Hon'ble Judges: L.N. Mittal, J**Bench:** Single Bench**Advocate:** Arun Bansal with Mr. Kanhya Lal, for the Appellant;**Final Decision:** Dismissed

Judgement

L.N. Mittal, J.

Surender Kumar @ Sanjay has filed this revision petition under Article 227 of the Constitution of India assailing order dated 6.2.2012, Annexure P/5 passed by learned District Judge (Family Court), Bhiwani thereby granting interim maintenance to respondent wife Kiran Rani at the rate of Rs 6000/- per month from the date of filing of application, besides litigation expenses of Rs 5500/- , on application, Annexure P/1 moved by respondent -wife u/s 24 of the Hindu Marriage Act, 1955 (in short, the Act). The petitioner - husband has filed divorce petition against respondent wife Kiran Rani u/s 13 of the Act. During pendency of the divorce petition, the wife moved application Annexure P/1 u/s 24 of the Act claiming interim maintenance and litigation expenses alleging that she has no source of income whereas the petitioner - husband is Engineer earning salary of Rs 1,10,000/- per month.

2. Petitioner - husband alleged that the respondent - wife was herself serving in Delhi Public School, Bhiwani as teacher and if she has voluntarily resigned, she is not entitled to claim interim maintenance from the petitioner. The husband denied his

salary to be Rs 1,10,000/- per month.

3. Learned District Judge (Family Court), Bhiwani vide impugned order Annexure P/5 granted maintenance pendente lite and litigation expenses to the wife as noticed hereinbefore. Feeling aggrieved, husband has filed this revision petition to challenge the said order.

4. I have heard learned counsel for the petitioner and perused the case file.

5. Counsel for the petitioner vehemently contended that the respondent - wife as per her own version in the written statement resigned from her job as teacher in Delhi Public School and it shows that she has earning capacity. However, presently wife is not earning anything. The petitioner - husband in his reply Annexure P/2 did not even state as to how much salary he was earning. This led to unnecessary litigation because initially order Annexure P/3 was passed by the Family Court which was challenged by the wife for enhancement of maintenance pendente lite and this Court vide order Annexure P/4 remitted the case to the Family Court for passing fresh order and thereupon fresh order Annexure P/5 has been passed by Family Court. It has now transpired that the petitioner himself stated in the witness box that his gross salary is Rs 23,959/- per month i.e. roughly Rs 24,000/- per month. However, he did not state this fact in his reply Annexure P/2.

6. Counsel for the petitioner also contended that the petitioner is also maintaining the daughter born out of the marriage. However, no such plea was taken in reply Annexure P/2 nor during arguments before the Family Court. Be that as it may, the fact remains that there is no material on record to depict that respondent - wife is earning anything at present whereas respondent as per his own version is having salary of Rs 23,959/- per month. In view thereof, interim maintenance at the rate of Rs 6000/- per month only cannot be said to be excessive so as to warrant reduction in exercise of power of superintendence under Article 227 of the Constitution of India. The impugned order of the Family Court does not suffer from any perversity, illegality or jurisdictional error warranting interference at the hands of the husband - petitioner. The revision petition is meritless and is accordingly dismissed in limine.