

09.07.2025
Item No.32
Court No.01
SK(AR(CR)

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri**

CO/173/2024

**DILIP SHARMA
VS
PUJA AGARWALA @ PUJA SHARMA**

Mr. Arnab Saha,
...for the petitioner

Mr. Milindo Paul,
Mr. Nabankur Paul,
Mr. Bedasruti Bose,
Ms. Sutapa Sen Paul,
Mr. Bodhisatya Ghosh,
Mr. Subham Das,
....for the respondent

This revisional application is directed against an order dated 31 August, 2024 passed in an application under section 24 of Hindu Marriage Act, 1955.

Briefly, in an application under section 24 for *pendent lite* maintenance the Learned Additional District Judge, 2nd Court, Siliguri had directed that the petitioner husband to pay the respondent wife a sum of Rs. 15,000/- per month as alimony alongwith Rs. 2,500/- as litigation costs.

The applicant challenges the impugned order on the ground that the same has been passed without considering any of the facts and circumstances of this case. It is alleged by the petitioner husband that fraud and injustice has been perpetrated against him in passing of the

impugned order. The respondent wife was a citizen of Nepal. Moreover, 27 days after solemnization of the marriage, the respondent wife carried away her gold ornaments and her personal belongings to her matrimonial house. The applicant also alleges that the marriage was a nullity on the ground that the respondent wife was previously married in Nepal. It is also alleged that the child is not that of the petitioner. Thus, a paternity issue is now raised in respect of the minor child by the applicant.

The matter had been adjourned on repeated occasions. Pursuant to orders of Court, a Mediator had also been appointed who had filed a Report, *inter-alia* highlighting that due to the acrimonious differences between the parties, no mediation was possible.

It is submitted by both the parties that they have paid their share of Rs.10,000/- each.

All issues are still pending for consideration in the matrimonial suit.

In the meantime, in an application under section 24 of the Act, the Learned Judge after considering the facts and circumstances, the declared assets and liabilities, the monthly income of the opposite party i.e. husband and based on the clarification received from both

the parties has arrived at the figure of Rs.15,000/- per month alongwith litigation costs of Rs.2,500/-. In passing the impugned order, the Learned Court has also taken into consideration the annual turnover and gross receivables of the petitioner which aggregate to Rs. 1,84,54,320/-. The net income of the applicant has been assessed at Rs.4,98,930/- and the regular monthly withdrawals at Rs. 74,654/-. The applicant was also found to have cash in hand aggregating to Rs. 59,832.05/-. The tax returns and bank statements of the applicant husband has also been taken into consideration in passing the impugned order.

For convenience, the relevant provision is set out herein below:

“24. Maintenance pendente lite and expenses of proceedings.-

Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable.

Provided, that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.”

Section 24 of the Hindu Marriage Act, 1955, is a beneficial provision designed to

prevent financial hardship to a spouse who lacks sufficient independent income during the pendency of matrimonial litigation. The provision ensures that a financially weaker spouse, often the wife, is not rendered destitute or placed in a position where they are unable to contest or prosecute matrimonial proceedings on an equal footing. In *Jasbir Kaur Sehgal v. District Judge, Dehradun*, (1997) 7 SCC 7: AIR 1997 SC 3397, the Hon'ble Supreme Court has emphasized that the quantum of interim maintenance must allow the applicant to live in reasonable comfort, consistent with the standard of living she enjoyed while living with the spouse. At the same time, it must not be excessive or extortionate. It is not subject to a fixed formula but depends upon the facts, status, needs, and means of both parties. In conclusion, section 24 is a crucial safeguard in matrimonial law, upholding access to justice and basic dignity of life for the dependent spouse during pendency of proceedings. Courts have consistently interpreted it liberally to prevent hardship, ensure fairness, and maintain parity in adversarial proceedings, particularly in view of the economic vulnerability of wives who are otherwise left without sustenance or means to contest

proceedings meaningfully. It is to be remembered that the remedy of maintenance *pendente lite* is a measure of social justice to prevent wives and children from falling into destitution or vagrancy.

In the above factual scenario, there is no infirmity nor perversity nor contravention of any law which warrants any interference by this Court. As a general principle, the Court under section 24 has a wide discretionary element, after takes into consideration the relevant income and expenditure, assets and liabilities and financial records of the petitioner husband.

There is nothing in the impugned order which justifies any interference. Significantly, despite an order passed by the Learned Judicial Magistrate, 4th Court, Siliguri, the applicant had failed to pay any maintenance to the respondent wife or the minor child. The fact that some documents had been filed by the applicant husband had been clearly recorded in the order and the same have been referred to in the impugned order.

The disputes sought to be raised by the applicant husband are not a pre-condition before exercising jurisdiction under section 24 of the Act.

On the entirety of the evidence on record, the conduct of the applicant husband is *prima facie* malafide and mischievous. There is nothing illegal nor perverse nor contrary to law nor violative of the principles of natural justice which justifies any interference with the order. There is no irrationality or perversity in the discretion exercised. *Prima facie*, the conduct of the applicant husband demonstrates that the only aim of the husband is to delay and procrastinate matter unnecessarily. The present application is an abuse of process and is dismissed.

The petitioner is directed to forthwith comply with the order of payment of maintenance *pendente lite*. In default, liberty is granted to the respondent wife to take appropriate steps in accordance with law.

The Trial Court Records (TCR) be forthwith returned to the Court of the Learned Additional District Judge, 2nd Court, Siliguri. The Learned District Judge is also directed to expeditiously dispose of the pending proceedings without any unnecessary adjournments to either of the parties.

(RAVI KRISHAN KAPUR, J.)