

**Pushpa Devi @ Savita Vs. Ramesh Kumar**

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**SooperKanoon Citation :** [sooperkanoon.com/503718](http://sooperkanoon.com/503718)

**Court :** Madhya Pradesh

**Decided On :** Jan-17-1990

**Reported in :** II(1991)DMC465

**Judge :** S. Awasthy, J.

**Acts :** [Hindu Marriage Act, 1955](#) - Sections 24

**Appeal No. :** Civil Rev. No. 189 of 1988

**Appellant :** Pushpa Devi @ Savita

**Respondent :** Ramesh Kumar

**Disposition :** Petition dismissed

**Judgement :**

**S. Awasthy, J.**

1. This revision has been filed by the defendant for enhancement of the amount of maintenance pendente lite and also the amount towards cost awarded by the First Additional Judge to the Court of District Judge, Raigarh in Civil Suit No, 27-A of 1983.

2. A suit under Section 13 of the Hindu Marriage Act, was filed by the non-applicant (herein) on 12-4-1983. After receiving notice the applicant (herein) made

an application on 27-6-1983 claiming maintenance pendente lite and also for meeting the expenses in the litigation. After recording evidence of the parties the Trial Judge passed the impugned order on 17-3-1988 directing the non-applicant to pay Rs. 450/- per month maintenance payable from 1-1-1988 and Rs. 2,000/- for meeting the expenses of litigation.

3. The first contention of the learned counsel for the applicant is that the amount of maintenance should have been made payable from the date of service of the summons on her or from the date of the application under Section 24 of the Hindu Marriage Act. The Court did not give cogent reasons for the order making amount of maintenance payable from 1-1-1988. This according to him requires interference by this Court.

4. The second argument of the learned counsel is that the non-applicant was maintaining account books, which he failed to produce. The factory for manufacture of candles is not run by the joint hindu family, but he himself is the sole owner thereof. His monthly income should have been adjudged at Rs. 10,000/-per month. He further submitted that the applicant (herein) has to go from Bilaspur to Raigarh to attend the case and has to take the assistance of someone to escort her. She has engaged a counsel from Bilaspur, who has also to go to Raigarh in all the hearings to defend her. The argument of the learned counsel is that the amount awarded to meet the expenses in litigation is too inadequate. The quantum of maintenance fixed is also not according to law.

5. The learned counsel for non-applicant argued that it is the case pleaded by the applicant (herein) that her husband carries on the business with the joint hindu family of his father and they all taken together earn Rs. 10,000/-per month. His submission is that the assessment by sales tax and income tax departments show that the income is Rs. 10,000/- per month. There was no need to file the account books. Finally, it is argued that it being a discretionary order cannot be interfered with. The discretion exercised by the Court below is according to law. He submitted that the Court below committed no error of law.

6. The learned counsel for the applicant (herein) relied on the case of Shobhana v. Sharad Shridhar (M.F.A. No. 206/72 decided on 10-7-74), 1975 note 43, while the

counsel for the non-applicant (herein) relied on the case of Radhika bai v. M.P. Sadharam Awatrai (AIR 1970 page 14) and Bank of Baroda v. Krishna Ballabh (AIR 1975 Rajasthan page 1).

7. The object of Section 24 of the Hindu Marriage Act is, to make an adequate provision for husband or wife, as the case may be, who has no independent means of income sufficient for his or her support and the necessary expenses of the proceedings, to enable him or her, to prosecute the case efficiently. Section 24 confers a wide discretion on the Trial Court in this matter and in case of any discretionary order this Court would interfere only, if the order is arbitrary or is made in disregard of any sound principle. An order under Section 24 is meant to provide means to the indigent spouse during the pendency of the case. The order to be passed is of a temporary nature and that is all the more reason why there should not be any interference by this Court unless it is manifestly unreasonable.

8. Since the suit had been pending for sufficiently long time without any error on the part of the non-applicant (herein). The Trial Court was justified for not ordering the payment of the amount of maintenance prior 1-1-1988. Had the amount been ordered to be payable from the date of the application the case of the non-applicant (herein) would have decidedly been prejudiced as he might not have been able to pay such an exorbitant amount.

9. Looking to the evidence on record the Trial Court was right in exercising its discretion by fixing the amount as in the impugned order. I do not see any merit in this revision which is hereby dismissed but without any order as to cost. The parties are directed to bear their costs of this revision.