

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 25th OF APRIL, 2024

MISC. PETITION No. 2171 of 2024

BETWEEN:-

**NARENDRA KUMAR RAIKWAR S/O LATE
SARMAN LAL RAIKWAR, AGED ABOUT 60
YEARS, OCCUPATION: GOVERNMENT SERVANT
WORKING AS DRIVER KRISHI VIGYAN KENDRA
NARSINGHPUR (MADHYA PRADESH)**

....PETITIONER

(BY SHRI TIRTHRAJ PILLAI - ADVOCATE)

AND

**SMT. MAMTA RAIKWAR W/O NARENDRA
KUMAR RAIKWAR R/O SUDAMA NAGAR, MADAN
MAHAL, OPPOSITE KALIMATH MANDIR,
JABALPUR (MADHYA PRADESH)**

....RESPONDENT

(NONE)

*This petition coming on for admission this day, the court passed
the following:*

ORDER

1. This petition under Article 227 of the Constitution of India has been filed against order dated 16.02.2024 passed by First Additional Principal Judge, Family Court, Jabalpur in RCSHMA No.423/2019, by which application filed by the respondent under Section 24 of the Hindu Marriage Act has been allowed and the petitioner has been

directed to make payment of interim maintenance of Rs.5000/- per month from the date of order as well as to pay Rs.3000/- by way of litigation expenses.

2. It is submitted by counsel for the petitioner that the respondent had filed an application under Section 125 of Cr.P.C. and that application was rejected on the ground that she is residing separately without any reasonable reason. Thus, it is submitted that Trial Court has committed mistake by granting interim maintenance @ Rs.5000/- per month.
3. Heard counsel for the petitioner.
4. Although the petitioner has not filed a copy of the petition filed under Section 13 of the Hindu Marriage Act but a copy of the same was provided to the Court for its perusal. In the application he has not claimed that after the respondent left her matrimonial house, he ever made any effort to bring her back. It is well settled principle of law that if the husband has not made any effort to bring his wife back to matrimonial house, then he cannot claim that his wife has deserted him. Whether the respondent has deserted the petitioner is yet to be decided by the Trial Court. Furthermore, proceeding under Section 125 of Cr.P.C. and proceeding under Section 24 of the Hindu Marriage Act are different proceedings and the findings given in one case cannot be applied to other case.
5. Under these circumstances, this Court is of the considered opinion that interim maintenance @ Rs.5000/- cannot be said to be on higher side. As no case is made out warranting interference, petition fails and is hereby **dismissed**.

6. It is made clear that in case if the wife files a writ petition for award of interim maintenance from the date of application or files a petition for enhancement of maintenance amount, then this order shall not come in her way.

(G.S. AHLUWALIA)
JUDGE

JP