

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 37 of 2020

Sanjeev Agrawal

.....Petitioner

Vs.

State of Uttarakhand and another

..... Respondents

Present : Mr. Pawan Mishra, Advocate for the petitioner.
None appear for respondent no.1.
Mr. Pramod Tiwari, Brief Holder for the State/respondent no.2.

JUDGMENT

Per : Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this petition is made to the order dated 08.08.2019, passed in Application No.529 of 2018, by the court of 2nd Judicial Magistrate, Dehradun (for short, "the case"), by which, the petitioner was directed to pay ₹25000/- per month to the respondents and order dated 05.12.2019, passed in Criminal (D.V.) Appeal No.227 of 2019, by the court of 5th Additional Sessions Judge, Dehradun ("the appeal"), by which, the maintenance amount was enhanced from ₹25,000/- to ₹30,000/- per month.

2. None appears for the respondent no.1, although earlier she was represented on these proceedings.

3. Heard learned counsel for the petitioner and perused the record.

4. Factual matrix briefly stated as follows. The respondent no.1 and the petitioner, both were married on 01.12.1996, but thereafter their relations became strained. The respondent no.1 filed an application under Section 12 of **The Protection Of Women From Domestic Violence Act, 2005**, which is basis of the case. In the case, the respondent no.1 filed an application for interim maintenance, which has been allowed by the interim order dated 08.08.2019, passed in the case and the petitioner has been directed to pay ₹25,000/- per month as interim maintenance. This order was challenged by both the parties in the appeal, which was decided on 05.12.2019 and the amount of interim maintenance has been enhanced from ₹25,000/- to ₹30,000/-.

5. Learned counsel for the petitioner would submit that, in fact, the respondent no.1 has concealed her income. She had been running a boutique and getting about ₹3 Lacs per month. She also works in a commodity market. It is argued that the petitioner has also filed his Income Tax Return revealing his income as ₹4,57,827/-. The petitioner has other liabilities also. It is argued that

the amount of interim maintenance is given on the higher side.

6. The scope of instant petition is quite short. The dispute is pending between husband and wife with regard to the matrimonial discord. The wife has sought maintenance also and the interim maintenance has been awarded to her to the tune of ₹25,000/- per month. Admittedly, all the three children of the parties are staying with the wife. It is the allegations of the respondent no.1, the wife that the petitioner runs a jewellery shop and earns more than ₹3 Lacs per month. He also does money landing. Their family has business in the jewellery and they earn lacs per month. This factor was taken into consideration while the court below had passed the order in the case while in the revision, the Income Tax Returns were also placed for perusal of the court and it was also argued that the respondent no.1 runs a boutique.

7. Having considered the entirety of facts, this Court is of the view that the court in appeal has enhanced the interim maintenance from ₹25,000/- to ₹30,000/-.

8. What would be the exact income of the parties that would be ascertained after evidence is adduced and further, what would be the adequate amount of maintenance that would also fall for scrutiny once the evidence is adduced. There are allegations by the respondent no.1, the wife that that petitioner has other source of income including money lending and family jewellery business.

9. Having considered the facts and circumstances of the case, this Court does not see any reason to make any interference in the impugned orders. Accordingly, the petition deserves to be dismissed.

10. The petition is dismissed.

(Ravindra Maithani, J.)
27.12.2023

Sanjay