

Court No. - 79

Case :- CRIMINAL REVISION No. - 596 of 2023

Revisionist :- Dinesh Kumar

Opposite Party :- State Of U.P. And 2 Others

Counsel for Revisionist :- Sumit Daga

Counsel for Opposite Party :- G.A.

Hon'ble Vipin Chandra Dixit,J.

Heard Sri Sumit Daga, learned counsel for the revisionist, learned A.G.A. for the State and perused the record.

This criminal revision has been filed by the revisionist against the judgement and order dated 05.01.2023 passed by learned Additional Principal Judge, Family Court NO.2, Muzaffarnagar in Case No. 11 of 2019 by which the application filed by opposite party nos. 2 and 3 under Section 125 Cr.P.C. was allowed and revisionist was directed to pay Rs. 5,000/- per month to opposite party no.2, who is wife of revisionist and Rs. 3,000/- per month to opposite party no.3, who is minor son of revisionist.

It is submitted by learned counsel for the revisionist that the maintenance awarded by the learned Family Court, is highly excessive and without considering the monthly income of the revisionist. It is further submitted that the learned Family Court without considering the comparative hardship of revisionist has awarded a very excessive amount of maintenance in favour of opposite party nos. 2 and 3. Lastly it is submitted that the revisionist is ready to keep his wife, but she refused to live with the revisionist and as such the application under Section 125 Cr.P.C. on behalf of wife and minor son is not maintainable in view of Section 125(4) Cr.P.C.

Admittedly, the opposite party no.2 is legally married wife of revisionist and opposite party no.3 is minor son of revisionist. The revisionist being husband of opposite party no.2 and father of opposite party no. 3 is morally bound to discharge his legal obligation of maintaining his wife and minor son in any circumstances. The husband cannot be heard to say that he is not in a position to earn enough to be able to maintain his wife and children. In the present case as the revisionist has not frankly disclosed his income, an adverse inference can be drawn against him.

Now it is the settled position of law that when the husband does

not disclose to the court the exact amount of his income and the question of maintenance of wife and children arises, the presumption would be against the husband and the obligation of the husband is on a higher pedestal. The learned Family Court after considering the entire evidence and material, which are available on record has recorded the finding while deciding issue no.2 that the wife was physically and mentally tortured by her husband, who is revisionist and there is sufficient cause to live separately.

Considering the facts and circumstances of the case and keeping in mind the spiraling inflation rate and high cost of living index, the Court is of the view that maintenance at the rate of Rs.5,000/- per month in favour of the wife and Rs.3,000/- per month in favour of the minor son cannot be treated to be on higher side rather it is too meager.

In view of above, there is no illegality, infirmity or perversity in the impugned order which may warrant any interference by this Court. No ground for interference is made out. The writ petition filed by husband is liable to be dismissed.

The criminal revision is ***dismissed***, accordingly.

Order Date :- 13.10.2023

Virendra