

Court No. - 79

Case :- CRIMINAL REVISION No. - 700 of 2023

Revisionist :- Rajesh

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Syed Wajid Ali, Santosh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vipin Chandra Dixit, J.

Heard Sri Anuj Kumar Sharma, Advocate holding brief of Sri Santosh Kumar Singh, learned counsel for the revisionist, learned A.G.A. for the State and perused the record.

Despite service of notice, no one has put in appearance on behalf of opposite party no.2.

This criminal revision has been filed by the revisionist against the judgment and order dated 9.1.2023 passed by learned Additional Principal Judge, Court No.3, Family Court, Bareilly in Criminal Misc. Case No.918 (1400918) of 2015 (Smt. Premwati Vs. Rajesh), by which application filed by opposite party no.2 under Section 125 Cr.P.C. was allowed and the revisionist was directed to pay Rs.1,000/- per month to opposite party no.2, who is wife of revisionist from the date of application till the date of judgment and thereafter Rs.4,000/- per month.

It is submitted by learned counsel for the revisionist that opposite party no.2 has left the house of revisionist without there being any sufficient reason and is residing in her parental house. The revisionist has also filed a case under Section 9 of Hindu Marriage Act for restitution of conjugal rights but in spite of best efforts the opposite party no.2 was not ready to live with revisionist. The maintenance awarded by the Family Court is highly excessive and without any basis.

The issue no.2 has been framed by the Family Court as to whether the wife is living separately without there being any sufficient reason? The learned Family Court has recorded the finding after considering the entire materials and evidence which are available on record that opposite party no.2 has left the house of her husband on account of cruelty and demand of dowry. F.I.R. was also lodged by opposite party no.2 against the revisionist which was registered as Case Crime No.165 of 2015, under Sections 498A, 323 I.P.C. and Section 3/4 D.P. Act. The issue no.2 has been decided by the

Family Court in favour of opposite party no.2 that there is sufficient reason for opposite party no.2 to live separately.

Admittedly, the opposite party no.2 is legally married wife of revisionist. The revisionist being husband of opposite party no.2 is morally bound to discharge his legal obligation of maintaining his wife 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.

Considering the facts and circumstances of the case and keeping in mind the spiralling inflation rate and high cost of living index, the Court is of the view that maintenance at the rate of Rs.4,000/- per month in favour of the wife cannot be treated to be on higher side rather it is too meagre.

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 criminal revision filed by husband is liable to be dismissed.

The criminal revision is dismissed, accordingly.

However, it is provided that revisionist shall pay the entire arrears as on date in six equal monthly instalments to the opposite party no.2, failing which it is open to opposite party no.2 to initiate recovery proceedings against the revisionist.

Order Date :- 1.12.2023

Kpy