

Court No. - 79

Case :- CRIMINAL REVISION No. - 1352 of 2023

Revisionist :- Abhishek Gupta @ Ritesh

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

Counsel for Revisionist :- Manoj Kumar Gupta,R.P.S. Chauhan

Counsel for Opposite Party :- G.A.,Bipin Kumar Tripathi

Hon'ble Vipin Chandra Dixit,J.

Heard Sri R.P.S. Chauhan and Sri Manoj Kumar Gupta, learned counsel for the revisionist, learned A.G.A. for the State and Sri Bipin Kumar Tripathi, learned counsel for the opposite party no.2.

This criminal revision has been filed by the revisionist against the judgement and order dated 07.02.2023 passed by learned Principal Judge, Family Court, Gorakhpur, in Criminal Case No.- 599 of 2018 by which the application filed on behalf of opposite party no.2 under Section 125 Cr.P.C. was allowed and revisionist was directed to pay Rs. 20,000/- per month as maintenance to opposite party no.2, who is wife of revisionist.

It is submitted by learned counsel for the revisionist that maintenance awarded by the learned Family Court is highly excessive and without any basis. The learned Family Court has erred in assessing the monthly income of the revisionist as Rs. 80,000/- relying on income tax return for the last five years, whereas as per income tax return the average monthly income of revisionist comes to Rs. 35,000/- . The finding recorded by the learned Family Court in respect of income of the revisionist is perverse and against the evidence and material, which are available on record. It is further submitted that the learned Family Court has erred in not considering the comparative hardship of the revisionist, as the son of revisionist is living with the revisionist and he has spent huge money in his education.

Learned counsel for the opposite party no.2 submits that the maintenance awarded by the learned Family Court is just and proper and cannot be said to be excessive in any manner, but has not disputed the average income of revisionist as Rs. 35,000/- per month as per Income Tax Returned filed by revisionist for last five years.

Considered the rival submissions of learned counsel for the parties and perused the record.

Admittedly the monthly income of the revisionist is Rs. 35,000/- per month and he is having liability of his son, as such the Court is of the view that monthly maintenance at the rate of Rs. 20,000/- per month awarded in favour of wife is slightly on higher side and is liable to be reduced.

In view of above, the criminal revision filed by revisionist husband is partly allowed and the maintenance awarded by the learned Family Court at the rate of Rs.20,000/- per month is reduced to Rs. 15,000/- per month.

It is further provided that the entire arrears as on date shall be paid by the revisionist @ Rs. 15,000/- per month in nine equal monthly installments, failing which it is open to the opposite party no.2 wife to execute the award of the learned Family Court.

Order Date :- 6.12.2023

Virendra