

Court No. - 79

Case :- CRIMINAL REVISION No. - 1711 of 2023

Revisionist :- Shushil Kumar

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

Counsel for Revisionist :- Arunesh Kumar Singh

Counsel for Opposite Party :- G.A.,Ajay Kumar
Srivastava,Sanjay Srivastava

Hon'ble Vipin Chandra Dixit,J.

Second supplementary affidavit filed today is taken on record.

Heard learned counsel for the parties and perused the record.

This criminal revision has been filed by the revisionist against the judgment and order dated 05.12.2022, passed by Principal Judge, Family Court, Varanasi, in Case No. 28 of 2021 (Mamta Devi vs. Sushil Kumar), under Section 125 Cr.P.C., by which the application filed by opposite party no. 2 under Section 127 Cr.P.C. was allowed and maintenance has been enhanced from Rs. 2,000/- to Rs. 3,000/- per month in favour of wife and from Rs. 1,500/- to Rs. 2,000/- per month to the minor son of revisionist.

It is submitted by learned counsel for the revisionist that the application filed by opposite party no. 2 under Section 125 Cr.P.C. was allowed by the learned family court, vide order dated 12.10.2017 and revisionist was directed to pay Rs. 2,000/- per month to wife and Rs. 1,500/- per month to the minor son of the revisionist. The revisionist has fully complied with the order dated 12.10.2017 by paying maintenance awarded under Section 125 Cr.P.C. It is further submitted that the revisionist was met with an accident and received grievous injuries and as per disability certificate issued by Chief Medical Officer, Varanasi, the revisionist is disabled to the extent of 70%. Lastly, it is submitted that the revisionist is facing great financial hardship on account of disability but this important aspect of the matter has not been considered by learned family court while enhancing the amount of maintenance.

On the other hand, learned counsel appearing on behalf of opposite party no. 2 submits that a very meagre amount has been enhanced by the learned family court i.e. from Rs. 2,000/- to Rs. 3,000/- per month to the wife and from Rs. 1,500/- to Rs. 2,000/- per month to

minor son. It is further submitted that opposite party no. 2 is wife of revisionist having no source of income and also facing financial crisis.

Admittedly, the opposite party no. 2 is legally married wife of revisionist. The revisionist being husband of opposite party 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. 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.

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 enhancement of maintenance amount from Rs. 2,000/- to Rs. 3,000/- per month to the wife and from Rs. 1,500/- to Rs. 2,000/- per month to the minor son 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.

Order Date :- 17.10.2023

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