

**Court No. - 79**

**Case :-** CRIMINAL REVISION No. - 1708 of 2023

**Revisionist :-** Dhaniram

**Opposite Party :-** State Of U.P. And 3 Others

**Counsel for Revisionist :-** Anand Pati Tiwari

**Counsel for Opposite Party :-** G.A.,Krishna Dutt Awasthi

**Hon'ble Vipin Chandra Dixit,J.**

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 24.01.2023, passed by Principal Judge, Family Court, Auraiya, in Case No. 333 of 2013 (Smt. Manju Devi and others vs. Dhaniram), under Section 125 Cr.P.C., by which the application filed by opposite parties nos. 2 to 4 under Section 125 Cr.P.C. was allowed and the revisionist was directed to pay Rs. 2,000/- per month to opposite party no. 2, who is wife of revisionist, Rs. 1,000/- per month to opposite party no. 3, who is minor son of revisionist and Rs. 2,000/- per month to opposite party no. 4, who is minor daughter of revisionist from the date of application i.e. 01.10.2013.

It is submitted by learned counsel for the revisionist that the maintenance awarded by the learned family court is very excessive and without considering the monthly income of the revisionist. It is further submitted that the learned court below without considering the comparative hardship of revisionist, has awarded very excessive amount of maintenance to opposite party nos. 2 to 4. Lastly, it is submitted that the revisionist is labourer having no source of income and as such unable to pay maintenance to opposite party nos. 2 to 4 as awarded by learned family court.

On the other hand, learned counsel appearing on behalf of opposite parties nos. 2 to 4 has submitted that the maintenance awarded by the court below cannot be said to be excessive in any manner, rather it is too meagre.

Admittedly, the opposite party no.2 is legally wedded wife of revisionist and opposite party nos. 3 and 4 are minor son and minor daughter of revisionist. The revisionist being husband of opposite party no.2 and father of opposite party nos. 3 and 4 is morally bound to discharge his legal obligation of maintaining his

wife and minor children 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.

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. 2,000/- per month to opposite party no. 2, who is wife of revisionist, Rs. 1,000/- per month to opposite party no. 3, who is minor son of revisionist and Rs. 2,000/- per month to opposite party no. 4, who is minor daughter of revisionist, 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 12 equal monthly installments.

**Order Date :- 8.12.2023**

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