

Court No. - 79

Case :- CRIMINAL REVISION DEFECTIVE No. - 400 of 2023

Revisionist :- Qamrujjahan Alias Najmuddin

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

Counsel for Revisionist :- Navin Kumar Srivastava, Nidhi Rai

Counsel for Opposite Party :- G.A., Nand Lal Yadav

Hon'ble Vipin Chandra Dixit, J.

As per report of Stamp Reporter, there is delay of 297 days in filing the present criminal revision.

Counter affidavit and rejoinder affidavit on the delay condonation application have been exchanged between the parties.

Cause shown in the affidavit filed in support of delay condonation application is sufficient.

The delay condonation application is allowed and the delay in filing the criminal revision is condoned.

Heard Sri Shashi Kant Pandey, Advocate holding brief of Ms. Nidhi Rai, learned counsel for the revisionist, learned A.G.A. for the State, Sri Nand Lal Yadav, learned counsel appearing on behalf of opposite party nos.2 & 3 and perused the record.

This criminal revision has been filed by the revisionist against the judgment and order dated 27.1.2020 passed by learned Principal Judge, Family Court, Azamgarh in Case No.724 of 2013 (Smt. Hena and another Vs. Qamrujaha), by which application filed by opposite party nos.2 and 3 under Section 125 Cr.P.C. was allowed and the revisionist was directed to pay Rs.4,000/- per month to wife/opposite party no.2 and Rs.1,000/- per month to minor son/opposite party no.3 from the date of order.

It is submitted by learned counsel for the revisionist that learned Family Court had awarded a very excessive amount of maintenance in favour of opposite party nos.2 and 3. It is further submitted that the monthly income of the revisionist is Rs.9,000/- per month and the learned Family Court without considering the comparative hardship of revisionist had awarded an excessive amount of maintenance in favour of opposite party nos.2 and 3.

On the other hand, learned counsel appearing on behalf of opposite party nos.2 and 3 states that the maintenance at the rate of Rs.4,000/- per month in favour of wife and Rs.1,000/- per month in favour of minor son as awarded by the Family Court cannot be said to be excessive in any manner rather it is on lower side.

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.

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 and Rs.1,000/- per month in favour of 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.

However, it is provided that revisionist shall pay the entire arrears as on date in six equal monthly instalments to the opposite party nos.2 and 3, failing which it is open to opposite party nos.2 and 3 to initiate recovery proceedings against the revisionist.

Order Date :- 1.12.2023

Kpy