

Court No. - 79

Case :- CRIMINAL REVISION No. - 2204 of 2023

Revisionist :- Lalbabu Shah Guad

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

Counsel for Revisionist :- R S Dubey, Savita Dubey

Counsel for Opposite Party :- G.A., Mohd Rehan Ansari, Pradeep Kumar

Hon'ble Vipin Chandra Dixit, J.

Heard Sri R.S. Dubey, learned counsel for the revisionist, learned A.G.A. for the State, Sri Pradeep Kumar, learned counsel appearing on behalf of opposite party nos.2 to 4 and perused the record.

This criminal revision has been filed by revisionist against the judgment and order dated 9.2.2023 passed by Additional Principal Judge, Family Court No.3, Deoria in Criminal Case No.95 of 2020 (Durgawati and others Vs. Lalbabu Shah Gaud), by which the application under Section 125 Cr.P.C. filed by opposite party nos.2 to 4 was allowed and the revisionist was directed to pay Rs.5,000/- per month to opposite party no.2, who is wife of revisionist and Rs.4,000/- per month each to opposite party nos.3 and 4, who are minor daughters of revisionist till they attain the age of majority.

It is submitted by learned counsel for the revisionist that the maintenance awarded by the learned Family Court is highly excessive and without any basis. The opposite party nos.2 to 4 had filed an application under Section 125 Cr.P.C. claiming maintenance at the rate of Rs.3,000/- per month in favour of opposite party no.2, who is wife of revisionist and Rs.1,000/- per month each in favour of opposite party nos.3 and 4, who are minor daughters of revisionist. The income of the revisionist was alleged as Rs.15,000/- per month in the application under Section 125 Cr.P.C. filed by opposite party nos.2 to 4. The opposite party nos.2 to 4 have not led any evidence in respect of income of the revisionist and even has not amended the application filed under Section 125 Cr.P.C. but the learned Family Court has awarded maintenance of Rs.5,000/- per month in favour of wife and Rs.4,000/- per month in favour of minor daughters and total maintenance awarded to opposite party nos.2 to 4 was Rs.13,000/- per month whereas the monthly income of the revisionist was assessed as Rs.15,000/- per month. Lastly, it is submitted that both the opposite party nos.3 and 4 have become major and they are not entitled for any maintenance under Section 125 Cr.P.C.

On the other hand, learned counsel appearing on behalf of opposite party nos.2 to 4 submits that learned Family Court has awarded a very just and reasonable amount of maintenance in favour of wife and minor daughters which cannot be said to be excessive in any manner and no ground for interference is made out.

Admittedly, the opposite party no.2 is legally married wife of revisionist and opposite party nos.3 and 4 are minor daughters 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 daughters 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 view of above, since the monthly income of the revisionist has been accepted as Rs.15,000/- per month, the maintenance at the rate of Rs.5,000/- per month in favour of wife and Rs.4,000/- per month in favour of two minor daughters seems to be excessive.

The criminal revision is partly allowed and the judgment and order dated 9.2.2023 passed by Additional Principal Judge, Family Court No.3, Deoria in Criminal Case No.95 of 2020 (Durgawati and others Vs. Lalbabu Shah Gaud) is modified to the extent that the revisionist shall pay Rs.3,000/- per month from the date of application i.e. 19.3.2009 till the date of judgment i.e. 9.2.2023 and thereafter Rs.5,000/- per month to opposite party no.2, who is wife of revisionist and Rs.1,000/- per month each in favour of opposite party nos.3 and 4, who are minor daughters of revisionist from the date of application i.e. 19.3.2009 till they attain the age of majority.

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 to 4, failing which it is open to opposite party nos.2 to 4 to initiate recovery proceedings against the revisionist. Any amount paid by the revisionist to opposite party nos.2 to 4 in terms of interim maintenance, shall be adjusted.

Order Date :- 31.10.2023

Kpy