

Court No. - 79

Case :- CRIMINAL REVISION DEFECTIVE No. - 670 of 2023

Revisionist :- Anil Kumar

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

Counsel for Revisionist :- Darwari Lal

Counsel for Opposite Party :- G.A.

Hon'ble Vipin Chandra Dixit,J.

As per report of Stamp Reporter, there is delay of 299 days in filing the criminal revision.

Cause shown in the affidavit filed in support of delay condonation application is sufficient. Delay condonation application is allowed. Delay in filing the criminal revision is condoned.

Heard Sri Darwari Lal, learned counsel for the revisionist and learned AGA for the State. No one is present on behalf of opposite party no.2.

This criminal revision has been filed against the judgment and order dated 16.4.2022 passed by learned Principal Judge, Family Court, Court No.1, Bareilly in Case No. 1167 of 2014(Smt. Mridula Praveen vs. Anil Kumar), Police Station Prem Nagar, District Bareilly by which the application of opposite party no. 2 under Section 125 Cr.P.C. was allowed and the revisionist was directed to pay Rs.3,000/- per month to his wife-opposite party no.2 as maintenance, Rs.2000/- lump-sum for travelling and Rs.2,200/- lump-sum for litigation expenses.

It is submitted by learned counsel for the revisionist that learned Family Court has awarded very excessive amount without recording any finding in respect of monthly income of the revisionist and without considering comparative hardship of the revisionsit.

Admittedly, the opposite party no.2 is legally married wife of revisionist. The revisionist being husband of opposite party no.2 is morally bound to discharge his legal obligation of maintaining his wife in any circumstance. 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 arises, the presumption would be against the husband and the obligation of the husband is on a higher pedestal.

Keeping in mind the spiraling inflation rate and high cost of living index, this Court is of the view that maintenance amount of Rs.3000/- per month awarded by the Family Court in favour of opposite party no.2, cannot said to be excessive.

In view of above, there is no illegality, infirmity or perversity in the impugned order which may warrant any interference by this Court. The criminal revision filed by husband is liable to be dismissed.

The criminal revision is **dismissed**, accordingly.

Interim order, if any, stands vacated.

Order Date :- 3.11.2023

P.P.