

Court No. - 79

Case :- CRIMINAL REVISION No. - 2703 of 2023

Revisionist :- Susheel Mishra

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

Counsel for Revisionist :- Pavan Kumar

Counsel for Opposite Party :- G.A., Bhaskar Singh, Phool Singh Yadav

Hon'ble Vipin Chandra Dixit, J.

Heard Sri Pavan Kumar, learned counsel for the revisionist, learned A.G.A. for the State and Sri Vaibhav Yadav, learned Advocate holding brief of Sri Phool Singh Yadav, learned counsel for the opposite party nos. 2 and 3 and perused the record.

This criminal revision has been filed against the judgement and order dated 14.03.2023 passed by learned Principal Judge, Family Court, Chitrakoot, passed in Case No.- 294 of 2021 by which the application filed on behalf of opposite party nos. 2 and 3 was allowed and revisionist was directed to pay Rs. 3,000/- per month to opposite party no.2, who is wife of revisionist and Rs. 5,00/- per month to opposite party no.3, who is minor son of revisionist.

It is submitted by learned counsel for the revisionist that learned Family Court had awarded a very excessive amount of maintenance without considering the monthly income of the revisionist. It is further submitted that the learned Family Court without considering the comparative hardship of revisionist has awarded a very excessive amount of maintenance in favour of opposite party nos. 2 and 3. Lastly it is submitted that the revisionist is husband and father of opposite party nos.2 and 3 respectively and there is chance of amicable settlement between the parties outside the Court and matter may be sent to Mediation Center.

Learned counsel for the opposite party nos. 2 and 3 submits that the maintenance awarded by the learned Family Court in favour of wife and minor son is very meagre. It is further submitted that there is no chance of amicable settlement as the opposite party no.2 was badly tortured by her husband and other in-laws on account of demand of dowry.

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. 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.3,000/- per month in favour of the wife and Rs.5,00/- 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 entire arrears as on date shall be paid in four equal monthly installments, failing which it is open to the wife to enforce the award by filing the application under Section 128 Cr.P.C. before the concerned Family Court.

Order Date :- 16.10.2023

Virendra